

1 IN THE COUNTY OF WASHINGTON

2
3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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8 FEBRUARY 15, 2005

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11 APPEARANCES:

12 MASON BRENT - OIL & GAS REPRESENTATIVE

BILL HARRIS - PUBLIC MEMBER

13 PEGGY BARBAR - PUBLIC MEMBER

14 BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

15
16 BOB WILSON - DIRECTOR OF THE DIVISION OF GAS & OIL AND
PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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1 BENNY WAMPLER: Okay, we'll go ahead and get
2 started. Good Morning, my name is Benny Wampler. I'm Deputy
3 Director for the Virginia Department of Mines, Minerals and
4 Energy, and Chairman of the Gas and Oil Board. I'll ask the
5 Board members to introduce themselves, starting with Mr.
6 Brent.

7 MASON BRENT: My name is Mason Brent. I'm from
8 Richmond and I represent the gas and oil industry.

9 BILL HARRIS: I'm Bill Harris from Wise County, a
10 public member.

11 PEGGY BARBAR: Peggy Barbar from Richlands, a
12 public member.

13 BOB WILSON: I'm Bob Wilson. I'm the Director of
14 the Division of Gas and Oil, and principal executive to the
15 Staff of the Board.

16 BENNY WAMPLER: The first item on the agenda is a
17 petition from prevailing plaintiffs and parties for royalty
18 split agreements for disbursement of funds escrowed on their
19 behalf for unit S-17, docket number 98-0120-0617-01. We'd
20 ask the parties that wish to address the Board in this matter
21 to come forward at this time.

22 (Parties come forward.)

23 BENNY WAMPLER: State your names for the record,

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1 please.

2 PETER GLUBIACK: I'm sorry. Good morning, Mr.
3 Wampler. Peter Glubiack, representing the prevailing
4 plaintiffs in the Harrison-Wyatt/Ratliff case. We are here
5 on...the first item on the agenda is S-17. It's also my
6 understanding that Mr. Wilson is going to rescue me here
7 because it has more to do with getting paperwork in the file
8 than anything else.

9 MARK SWARTZ: Mark Swartz and Anita Tester.

10 BENNY WAMPLER: Bob?

11 BOB WILSON: Yeah. S-17 was carried forward last
12 month strictly for the purpose of adding---.

13 MARK SWARTZ: Right.

14 BOB WILSON: ---claimants that CNX has on...an
15 agreement...split agreements with to that particular unit.
16 The petition by the plaintiffs was approved last time. This
17 was carried forward purely to facilitate notice.

18 MARK SWARTZ: Which...which we gave and filed with
19 you today, I think. Right. So, I think we're square on that
20 one is my understanding now.

21 BOB WILSON: Insofar as my records are concerned,
22 yes. I think probably the Board needs to hear the basis of
23 the disbursement again, just the synopsis and getting the

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1 opportunity to vote on that from your standpoint.

2 MARK SWARTZ: Okay, Anita, why don't you remind
3 them what we've...we've proposed to do...oh, yeah, you need
4 to be sworn now.

5 (Witness is duly sworn.)

6 ANITA DUTY
7 having been duly sworn, was examined and testified as
8 follows:

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. SWARTZ:

11 Q. State your name for us.

12 A. Anita Duty.

13 Q. Okay, oh, yeah, right. And who do you work
14 for?

15 A. CNX Gas.

16 Q. Okay. Were you here last month?

17 A. Yes.

18 Q. Okay. And since last month, with regard to
19 S-17, have you provided additional notices?

20 A. Yes.

21 Q. And did you file those today with Mr.
22 Wilson?

23 A. Yes.

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1 Q. Okay. What...what is it that...that we
2 proposed to do last month and again today with regard to
3 additional...an additional disbursement from escrow?
4 A. Okay, do you just want me to go first---.
5 Q. Just S-17 is the only one I want right now.
6 A. Okay. For S-17, we were wanting to add an
7 additional disbursement for Harrison-Wyatt and Buchanan
8 Production Company for 9.8854% paid to each owner.
9 Q. And that pertains to tract?
10 A. Tract 6.
11 Q. And how many acres?
12 A. 0.73.
13 Q. And you presented an exhibit last...last
14 month that gave the percentage and also indicated the dollars
15 in the account as of the point in which you were able to
16 balance the account, correct?
17 A. Yes.
18 Q. But for purposes of the disbursement from
19 escrow, we're talking about using a percentage so that if
20 there are additions to the escrow account, the disbursement
21 would be correct?
22 A. Yes.
23 Q. Okay. And the percentage to be disbursed of
24

1 the esc...the amount in escrow at the time of disbursement to
2 Buchanan Production and to Harrison-Wyatt, again, would be
3 what?

4 A. 9.8854%.

5 MARK SWARTZ: Okay. That's all I have, Mr.
6 Chairman.

7 PETER GLUBIACK: Excuse me, Mr. Swartz.

8 BENNY WAMPLER: Mr. Glubiack.

9 PETER GLUBIACK: To follow up on the percentage
10 question, using the information provided last meeting, it's
11 still accurate to say 77.187% of Tract 7 is Mr. and Mrs.
12 Raines?

13 ANITA DUTY: Yes.

14 PETER GLUBIACK: Okay. That didn't change is what
15 I'm asking?

16 ANITA DUTY: Right.

17 PETER GLUBIACK: Okay, thank you.

18 BENNY WAMPLER: Questions from members of the
19 Board?

20 (No audible response.)

21 BENNY WAMPLER: Is there a motion for approval of
22 disbursement as presented?

23 BILL HARRIS: So moved.

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1 PEGGY BARBAR: I second.

2 BENNY WAMPLER: Second. Any further discussion?

3 (No audible response.)

4 BENNY WAMPLER: All in favor, signify by saying

5 yes.

6 (All members signify by saying yes.)

7 BENNY WAMPLER: Opposed, say no.

8 (No audible response.)

9 BENNY WAMPLER: You have approval. The next item

10 on the agenda is a petition from prevailing plaintiffs and

11 parties to royalty split agreements for disbursement of funds

12 escrowed on their behalf for unit T-17, docket number 92-

13 1117-0284-01. We'd ask the parties that wish to address the

14 Board in this matter to come forward at this time.

15 PETER GLUBIACK: Good morning, again, Mr. Chairman,

16 Peter Glubiack for the two individuals involved in this...I'm

17 sorry, T-17, Ira Ratliff and Bill and Geneva Ratliff. It is

18 my understanding, based on our hearing in January, that this

19 was continued in order to allow for the submittal of the

20 revised Exhibit E to the application because of some

21 confusion in terms of names and percentage interest. I have

22 a copy of it. However, it is my understanding that Mr.

23 Wilson has already taken care of that in terms of putting it

24

1 in the record.

2 BOB WILSON: That's correct. Actually, it was
3 carried forward to facilitate the addition of other
4 claimants. We can handle the Exhibit E without...it wasn't
5 carried forward just based on Exhibit E.

6 MARK SWARTZ: Mark Swartz and Anita Duty here on
7 behalf of CNX.

8 BENNY WAMPLER: Okay.

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ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, we also discussed T-17 at last month's hearing, correct?

A. Yes.

Q. And it was continued, at least for our purposes, until today so that you could give some further notices, correct?

A. Yes.

Q. Did you do that?

A. Yes.

Q. Have you filed those with Bob?

A. Yes.

Q. Okay. And the additional folks that you would like to disburse out of escrow...who are the people that you would like to receive funds?

A. Harrison-Wyatt, LLC and Buchanan Production Company.

Q. And in unit T-17, which tract are they involved in and would this escrow disbursement come from?

A. Tract 5 is 0.23 acres.

Q. Okay. And the tract has...has a percent of

1 the amount of money on escrow. What would the percent
2 attributable to Tract 5 be?

3 A. 3.4125.

4 Q. Okay. And...and the split agreement between
5 Harrison-Wyatt, LLC and Buchanan Production Company, is that
6 a 50/50 split agreement?

7 A. Yes.

8 Q. And so what is the percentage that should
9 come out to each of these two owners?

10 A. Okay, it's 1.4787%, but it's only a portion
11 of that tract.

12 Q. Okay.

13 A. It's not a complete tract.

14 Q. Okay. So, there's someone else in there
15 that is not...in Tract 5 whose money is not subject to the
16 agreement?

17 A. Right.

18 Q. Okay. And you were able to balance the
19 accounts, as I recall?

20 A. Yes.

21 Q. And the amounts here are to illustrate the
22 balances as of the time you were able to bring the
23 records...the bank's records and your records into agreement?

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1 A. Yes.

2 Q. And for purposes of making the disbursement,
3 though, the 1.4787 is the percentage that should go to each
4 of these two owners, Harrison-Wyatt and Buchanan Production?

5 A. Correct.

6 MARK SWARTZ: That's all I have, Mr. Chairman.

7 BOB WILSON: Mr. Chairman.

8 BENNY WAMPLER: Mr. Wilson?

9 BOB WILSON: There was one other item on this that
10 needs to be just clarified for the record. The...this tract
11 was originally pooled under docket number 92-1117-0284. That
12 is where the money is and has been being escrowed. The unit
13 was later repooled under a different number, which was 95-
14 0321-0493. There was no money escrowed under that docket
15 number. But we need to acknowledge the repooling in our
16 order. For one thing, the tract designations changed from
17 the original pooling to the repooling. So, the tract
18 designations that we're using are those that are shown in the
19 repooling under 0493, whereas the money is actually residing
20 in 0284. Again, this is just for the record. We can take
21 care all of this in the order to bring all of this together.

22 BENNY WAMPLER: Nothing else changed in the
23 repooling?

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1 BOB WILSON: No, sir.

2 BENNY WAMPLER: Do you have anything---?

3 PETER GLUBIACK: Nothing further, Mr. Chairman.

4 MARK SWARTZ: The only...the only observation I

5 would make---.

6 BENNY WAMPLER: Mr. Swartz.

7 MARK SWARTZ: ---and I think it may potentially

8 apply to this and to some of the other units, there's a

9 letter from Bill Ratliff's...Ratliff or regarding Bill

10 Ratliff, I understand, that represents the deal with the IRS.

11 PETER GLUBIACK: We can...actually, Mr. Wilson has

12 it in front of him. We can deal with that one now as opposed

13 to---.

14 MARK SWARTZ: Yeah, because I think it could---.

15 PETER GLUBIACK: ---globally. He's in here and

16 that's an issue. So, I had spoken, Mr. Chairman, to Mr.

17 Wilson. I had not talked to Mr. Swartz. I have a proposal

18 and it's the only one I can really offer in terms of going

19 forward, and that's the issue that...we've answered the

20 escrow money. Now, we've a question going forward. What I

21 will say is starting with the Bristol office and then the

22 Richmond office, the supervisory people, have essentially

23 refused to give me an answer on going forward. The only

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1 proposal I have in terms of going forward is quite simply to
2 follow the procedure that's been approved, or hopefully will
3 be approved today, is that simply the money is forwarded as
4 attorney for by CNX. They...they simply aren't involved in
5 this and then we have to deal with them going forward and get
6 an answer. But I was not able to get a global answer. The
7 only answer I got as to the money in escrow, we have an
8 answer to that. So going forward, the only...the only thing
9 I can say is CNX seems to me...it's certainly their choice,
10 but it seems to me if the order includes it, then we have the
11 responsibility of clarifying any future payments with the
12 IRS. I've tried and I have spent six months and I don't have
13 an answer. They will not give me an answer on speculative
14 amounts of money. That's really...their position is you
15 don't know what you're getting, so we're not going to tell
16 you anything.

17 BOB WILSON: Mr. Chairman.

18 BENNY WAMPLER: Mr. Wilson?

19 BOB WILSON: I think probably it would be a good
20 point...a good point in the hearing here to place on the
21 record an email message that I got from John Byrum of the
22 State Attorney General's Office in Richmond. Mr. Byrum has
23 been designated to handle affairs related to this particular
24

1 disbursement. We had relied on him for information relative
2 to the IRS settlement and this sort of thing. His note says,
3 "We provided information and opinion to Benny Wampler
4 sometime ago, but to close the loop, Glubiack's
5 indemnification letter, in conjunction with the letter from
6 the IRS, is sufficient to satisfy our concerns about the tax
7 lien on the Ratliff's property, and hence distribution from
8 the fund. I understand that this will be taken up at
9 tomorrow's meeting," I received this yesterday, "and this
10 office sees no reason not to order distribution of the funds
11 as provided in the IRS letter. If you need anything further,
12 otherwise, from me, please let me know." The IRS letter that
13 he refers to is included in the handout that I gave you
14 there. And also in the information that I gave you is a copy
15 of a title opinion. The IRS transmittal states, "This
16 message sees no problem with the tenant by the entirety issue
17 regarding the proceeds from settlement agreement as long as
18 the proceeds and expenses are split 50/50 with Mr. and Mrs.
19 Ratliff." The other 50 being implied to be the IRS. "This
20 includes the attorney fees being also split 50/50 and equally
21 shared. Mr. Ratliff's 50% net proceeds should then be sent
22 to the Internal Revenue Service at the address shown above."
23 If you would clarify that---.

24

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1 PETER GLUBIACK: Yes, sir. I received that memo
2 and forwarded it to Mr. Byrum sometime ago and my
3 conversations with him last week indicated that he would send
4 Mr. Wilson an email and, I guess, that's what happened. So,
5 again, the answer to the going forward part of it...well, we
6 have an answer to the present money, that's the 50/50 split
7 with the IRS, going forward, I don't have an answer. I can't
8 make them give me an answer. The only answer I have is if
9 the order indicates that it not be escrowed, then it's my
10 responsibility to with each...if any future payments are
11 received, it's my responsibility to straighten that out with
12 the IRS because it would attach to the lien. So---.

13 BENNY WAMPLER: So would you agree to accept
14 payment coming to you---?

15 PETER GLUBIACK: Yes, yes.

16 BENNY WAMPLER: ---and you would handle---?

17 PETER GLUBIACK: Yes, I see no other way to do it.

18 BENNY WAMPLER: So, in other words, they pay
19 it...they pay the 100% to you and you would deal with---.

20 PETER GLUBIACK: They would pay it to Bill and
21 Geneva, attorney...Peter Glubiack, attorney for...just like
22 the escrow agent has been sending the checks, then I would
23 take care of the split.

24

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1 BENNY WAMPLER: Going forward?

2 PETER GLUBIACK: Going forward.

3 BENNY WAMPLER: Is that acceptable?

4 MARK SWARTZ: I don't have...whatever you want to

5 do is fine with us. I mean---.

6 BENNY WAMPLER: That make more sense to me rather

7 than us trying to explain to the escrow agent what to do

8 going forward.

9 MARK SWARTZ: Right.

10 BENNY WAMPLER: We'd just direct them to make

11 payment to you as the attorney.

12 PETER GLUBIACK: And it would be removed from the

13 escrow system.

14 BENNY WAMPLER: Right. And then you deal with

15 it---.

16 PETER GLUBIACK: Yes.

17 BENNY WAMPLER: ---however you're supposed to deal

18 with it.

19 PETER GLUBIACK: Yes.

20 MARK SWARTZ: And we'll...we'll do a supplemental

21 order or whatever---.

22 BENNY WAMPLER: Right.

23 MARK SWARTZ: ---if this order doesn't deal with

24

1 that, yeah.

2 BENNY WAMPLER: Right.

3 MARK SWARTZ: Okay.

4 BENNY WAMPLER: Okay. I think...I think that's...
5 does the Board agree with that?

6 MASON BRENT: I agree.

7 PEGGY BARBAR: Uh-huh.

8 BILL HARRIS: Uh-huh.

9 BENNY WAMPLER: All right.

10 PETER GLUBIACK: And with that answer, Mr.
11 Chairman, I have...with regard to the two petitioners, I have
12 no further questions or information.

13 BENNY WAMPLER: Anything further, Mr. Swartz?

14 MARK SWARTZ: No.

15 BENNY WAMPLER: Is there a motion to approve as we
16 just discussed?

17 MASON BRENT: I move that we approve it.

18 BILL HARRIS: Second.

19 BENNY WAMPLER: Second. Any further discussion?
20 (No audible response.)

21 BENNY WAMPLER: All in favor, signify by saying
22 yes.

23 (All members signify by saying yes.)

24

1 BENNY WAMPLER: Opposed, say no.
2 (No audible response.)
3 BENNY WAMPLER: You have approval. The next item
4 is a petition from prevailing plaintiffs and parties of
5 royalty split agreements for disbursement of funds escrowed
6 on their behalf for unit W-20. This is docket number 92-
7 0721-0240-01. This, again, was continued from January. I'd
8 ask the parties that wish to address the Board in this matter
9 to come forward at this time.
10 PETER GLUBIACK: Yes. Good morning, again, Mr.
11 Wampler and members of the Board. Peter Glubiack
12 representing the parties involved in this matter, at least
13 insofar as in this particular matter, it's Diana Graham.
14 It's also my understanding that Mr. Wilson...we continued
15 this to straighten out some discrepancies with the paperwork
16 and that Mr. Wilson has answered those issues and I'll defer
17 to him at this time.
18 BOB WILSON: Actually W-20 was continued to add
19 additional parties only.
20 BENNY WAMPLER: Okay.
21 BOB WILSON: I think you got full approval on that
22 one last time.
23 BENNY WAMPLER: Mr. Swartz.

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1 MARK SWARTZ: Mark Swartz and Anita Duty.

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3 ANITA DUTY

4 DIRECT EXAMINATION

5 QUESTIONS BY MR. SWARTZ:

6 Q. Anita, you need to state your name again.

7 A. Anita Duty.

8 Q. Okay. You work for CNX?

9 A. Yes.

10 Q. And this...we were here last month on
11 disbursement issues from W-20, correct?

12 A. Yes.

13 Q. And we were proposing to add an additional
14 disbursement?

15 A. Uh-huh.

16 Q. Regarding whom?

17 A. Hugh MacRae Land Trust and Consolidation
18 Coal Company.

19 Q. And what tract would that have come out of?

20 A. Tract 6.

21 Q. And the acres?

22 A. 26.56.

23 Q. And the total percent of the escrow account

24

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1 attributable to that tract is what percent?

2 A. 33.2249%.

3 Q. And what you're proposing come out to each

4 of these people on...based on their 50/50 split agreement is

5 what percentage?

6 A. Each owner would be paid 16.6125%.

7 Q. And it looks to me like that would probably

8 clear out the account?

9 A. Just that...for that tract.

10 Q. For that tract?

11 A. Yeah...yes.

12 Q. And the dollar amounts you reported were

13 simply the amounts in the account attributable to these

14 owners as of the time you balanced the account?

15 A. Yes.

16 Q. And as I recall, you were able to do that,

17 balance it?

18 A. Yes.

19 Q. Okay. So you're requesting that the Board

20 authorize the escrow and direct the escrow agent to disburse

21 to Hugh MacRae Land Trust and Consolidation Coal Company

22 16.6125% each pertaining to Tract 6 out of W-20?

23 A. Yes.

24

1 MARK SWARTZ: That's all I have.

2 BENNY WAMPLER: Questions from members of the
3 Board?

4 (No audible response.)

5 BENNY WAMPLER: Do you have anything, Mr. Glubiack?

6 PETER GLUBIACK: Nothing further. Thank you, Mr.
7 Chairman.

8 BENNY WAMPLER: Mr. Wilson, do you have anything
9 further?

10 BOB WILSON: No, sir.

11 BENNY WAMPLER: Is there a motion to approve
12 disbursement?

13 MASON BRENT: I make a motion to approve the
14 disbursement, Mr. Chairman.

15 PEGGY BARBAR: I'll second.

16 BENNY WAMPLER: Motion and second. Any further
17 discussion?

18 (No audible response.)

19 BENNY WAMPLER: All in favor, signify by saying
20 yes.

21 (All members signify by saying yes.)

22 BENNY WAMPLER: Opposed, say no.

23 (No audible response.)

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1 BENNY WAMPLER: You have approval. The next item
2 is a petition from prevailing plaintiffs for disbursement of
3 funds escrowed on their behalf for unit S-15. This is docket
4 number 92-0721-0237-01, continued from January. We'd ask the
5 parties that wish to address the Board in this matter to come
6 forward at this time.

7 PETER GLUBIACK: Again, good morning, Mr. Chairman.
8 Peter Glubiack for, in this case, it's Mr. and Mrs. Jerry
9 and Phyllis Raines. I'm going to ask Mr. Raines...based on
10 my conversations with Mr. Wilson, there was a bit of
11 confusion with regard to a party named Owens on some of the
12 earlier orders and we needed to clarify or straighten
13 out...I'm just going to---.

14 JERRY RAINES: Thank you.

15 PETER GLUBIACK: Members of the Board, Mr. Jerry
16 Raines. We'll get him sworn in a second. What we intend to
17 do is introduce a record, three certified copies of the deeds
18 leading up to the, and including deed...the vesting deed to
19 Raines in 1973. I intend to introduce those in the record.
20 It's also my understanding, based on my conversations with
21 Mr. Wilson, that this will essentially straighten out our
22 part of the confusion for the next three units. So, I'll do
23 it once and then we'll just reiterate the testimony. So---.

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1 (Jerry Raines is duly sworn.)
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1 the petitions in the units we're discussing today?

2 A. Right.

3 Q. Is that correct?

4 A. That is correct.

5 Q. And I see this has got a certification of

6 official records. If I could introduce all three of them at

7 the same time, we'll just wait. And the other two are going

8 backwards, I guess, is correct?

9 A. It is. This is...it appears that it is

10 deeded to John C. and Lacy Looney, probably what, '51?

11 Q. 1951, that's correct. That one is a little

12 harder to read. That was...is that McGlothlin to Looney, is

13 that correct?

14 A. It is. This is H. L., Henry Lewis,

15 McGlothlin and Vicie McGlothlin and this is where that it was

16 deeded to the Looneys.

17 Q. And that was, I believe, dated 19---?

18 A. 1900, I think.

19 Q. 1900, that's correct. And these are...

20 they're certified, but they're accurate copies to the best of

21 your knowledge?

22 A. They are, yes.

23 PETER GLUBIACK: I'm handing Mr.---.

24

1 BENNY WAMPLER: Mr. Swartz, do you need to look at
2 them?

3 PETER GLUBIACK: Take a look at them, Mr. Swartz,
4 if you want.

5 (Mr. Swartz reviews the deeds.)

6 PETER GLUBIACK: I'd like to introduce them---.

7 BENNY WAMPLER: Mr. Glubiack, are you representing
8 that these are the current owners of that?

9 Q. Mr. Raines, just to clarify this one step
10 further, the deed here indicates, that we're about to offer
11 as an exhibit, in October 1973, you purchased...you and your
12 wife purchased a property from Thurman and Alma Raines, and
13 is it your testimony that you are still the current owner of
14 this property?

15 A. It is.

16 Q. And you have not conveyed out any of this
17 property during that period?

18 A. No.

19 PETER GLUBIACK: Subject to any questions Mr.
20 Swartz or the Board would have, Mr. Chairman, my
21 understanding was that we were here really to clarify that
22 issue of any Owens ownership in these tracts, and I think we
23 have clarified that in the record with Mr. Raines' testimony

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1 and, again, subject to any of your questions, that's really
2 all the testimony I have.

3 BOB WILSON: Mr. Chairman.

4 BENNY WAMPLER: Mr. Wilson?

5 BOB WILSON: I might point out, too, that this is
6 consistent with later poolings and repoolings, which actually
7 dispensed with the Owens as being owners on the repoolings at
8 later dates.

9 BENNY WAMPLER: Mr. Swartz?

10 MARK SWARTZ: We don't have anything.

11 BENNY WAMPLER: Is Bill Ratliff in this one?

12 PETER GLUBIACK: No.

13 MARK SWARTZ: I don't believe so.

14 PETER GLUBIACK: These units are specifically Jerry
15 and Phyllis Raines, all three of these.

16 BENNY WAMPLER: Okay, that's what I was thinking.

17 PETER GLUBIACK: Yes.

18 BENNY WAMPLER: Is there a motion for approval for
19 disbursement?

20 BILL HARRIS: Motion to approve as presented.

21 MASON BRENT: Second.

22 BENNY WAMPLER: Motion and second. Any further
23 discussion?

24

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1 BOB WILSON: Excuse me.

2 BENNY WAMPLER: Yes.

3 BOB WILSON: Mr. Chairman, I believe there were
4 additional parties to be added to this. Let's see, did you
5 not have additional on this?

6 ANITA DUTY: No, we did this before they actually
7 came to do---.

8 BENNY WAMPLER: The last time.

9 ANITA DUTY: ---their part. We did ours in, I
10 think, December.

11 BENNY WAMPLER: Yeah.

12 BOB WILSON: You're right. I'm sorry.

13 BENNY WAMPLER: We did those before.

14 BOB WILSON: That's correct. I'm sorry.

15 BENNY WAMPLER: All in favor, signify by saying
16 yes.

17 (All members signify by saying yes.)

18 BENNY WAMPLER: Opposed, say no.

19 (No audible response.)

20 BENNY WAMPLER: You have approval. The next item
21 on the agenda is a petition from prevailing plaintiffs and
22 parties to royalty split agreements for disbursement of funds
23 escrowed on their behalf for unit T-15, docket number 92-
24

1 0721-0236-01. We'd ask the parties that wish to address the
2 Board in this matter to come forward.

3 PETER GLUBIACK: Once again, Mr. Chairman, good
4 morning, Peter Glubiack. I'm here with Mr. Jerry Raines who
5 testified previously on unit S-15. I would simply reallege
6 and repeat my testimony and Mr. Raines' testimony from that
7 unit. It's my understanding, based on my conversation with
8 Mr. Wilson and Mr. Arrington from CNX, that the issue
9 essentially was an earlier order which indicated an Owens
10 ownership, which was later corrected, just as Mr. Wilson
11 said, in a later re-pooling units. We were here today
12 specifically to clarify the fact that the Owens sold their
13 ownership interest in '73 and have had no interest since that
14 time.

15 BENNY WAMPLER: Mr. Wilson?

16 BOB WILSON: Yes, sir. I have, again, some
17 bookkeeping testimony to put into the record, or to point out
18 for the record. This unit was originally pooled under docket
19 number 92-0721-0236 and supplemented under that number. It
20 was subsequently supplemented under 92-1215-0306, which is
21 where the money is being escrowed. Subsequent to that, the
22 unit was re-pooled under 94-0920-0469. To the best of my
23 knowledge, none of the interest that we're concerned with

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1 today were affected by that. We merely need to, again, when
2 doing the order to kind of draw this stuff together. This
3 actually kind of demonstrates the involving practices of the
4 Board over the years. I think originally every time somebody
5 came back before the Board they got a different number and, I
6 think, possibly sometimes the connections weren't made
7 between prior orders. We can tie all this together in the
8 supplemental that we draft for disbursement and just needed
9 to point it out for the record.

10 BENNY WAMPLER: Do you have anything, Mr. Swartz?

11 MARK SWARTZ: No.

12 BENNY WAMPLER: Is there a motion for approval of
13 disbursement?

14 MASON BRENT: I move that we approve for
15 disbursement, Mr. Chairman.

16 BILL HARRIS: Second.

17 BENNY WAMPLER: Motion and second. Any further
18 discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying
21 yes.

22 (All members signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.

24

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1 (No audible response.)

2 BENNY WAMPLER: You have approval. The next item
3 is a petition from prevailing plaintiffs and parties to
4 royalty split agreements for disbursement of funds escrowed
5 on their behalf for unit T-16, docket 92-1117-0283-01. We'd
6 ask the parties that wish to address the Board in this matter
7 to come forward at this time.

8 PETER GLUBIACK: Once again, Mr. Chairman, good
9 morning. Peter Glubiack representing Mr. and Mrs. Jerry and
10 Phyllis Raines with regard to unit T-16. I would repeat and
11 reallege the testimony offered previously on unit S-15.
12 We've offered and introduced into evidence the chain of deeds
13 including the deed from the Owens to the Raines in October of
14 1973 establishing that the Owens, in fact, had no interest in
15 this property considerably prior to the order...the original
16 order. My only comment is...my understanding is Mr. Wilson
17 has some other number issues. In fact, I think in this case
18 there may be two escrow accounts that need to be combined and
19 ordered disbursed and that will have to be taken care of in
20 the order itself. But insofar as our appearance today, it
21 was simply my understanding to clarify any potential
22 ownership interest in the Owens, which we think we have
23 clarified. So with that, I would answer any questions. But

24

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1 I think we've answered it.

2 BENNY WAMPLER: Mr. Wilson?

3 BOB WILSON: Mr. Chairman, this is another confused
4 situation that I think we can square away with the order.
5 This unit was originally pooled under 92...docket number 92-
6 1117-0283. It was supplemented under 92-1215-0304.
7 Those...that particular pooling and thus that supplemental,
8 expired because the operator did not commence operation
9 within the allotted period of time. So the original order
10 expired. The unit was subsequently repooled under docket
11 number 94-1024-0476. The money, however, was placed...there
12 was money originally placed in the 0304 docket, which
13 technically had expired. There is also money that has been
14 placed in the 0476 docket. Now these...this unit was subject
15 to a disbursement request in, I believe, October or November
16 of last year, and there's testimony on the record to
17 recognize this fact. What we would like to do is get the
18 Board's approval to combine these accounts...actually
19 eliminate the 0304 account and put all those funds into the
20 current account, which is 0476, and disburse all of this
21 under 0476, accounting for this procedure of events in the
22 supplemental order.

23 BENNY WAMPLER: Do you have anything, Mr. Swartz?

24

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1 MARK SWARTZ: No.

2 BENNY WAMPLER: Questions from members of the
3 Board?

4 (No audible response.)

5 BENNY WAMPLER: Is there a motion for disbursement
6 along the lines that Mr. Wilson just requested?

7 MASON BRENT: So moved.

8 BILL HARRIS: Second.

9 BENNY WAMPLER: Any further discussion?

10 (No audible response.)

11 BENNY WAMPLER: All in favor, signify by saying
12 yes.

13 (All members signify by saying yes.)

14 BENNY WAMPLER: Opposed, say no.

15 (No audible response.)

16 BENNY WAMPLER: You have approval. The next item
17 is a petition from prevailing plaintiffs for disbursement of
18 funds escrowed on their behalf for unit U-19, docket number
19 94-1024-0475-01. This was also continued from January. We'd
20 ask the parties that wish to address the Board in this matter
21 to come forward at this time.

22 PETER GLUBIACK: Mr. Chairman, again, Peter
23 Glubiack. This unit is somewhat problematic. It is a
24

1 minuscule amount of money. But it is an individual owner. I
2 don't have any idea of what to do. Mr. Wilson, my
3 understanding is, ordered him to produce the escrow
4 accountings, and to my knowledge they have not been produced.
5 It's several hundred dollars. It's not an issue. It does
6 rankle my client a little...my clients a little bit. But
7 I...as to whether you have contempt power, I have no idea
8 what you do. I'm not about to launch into a court case about
9 this particular amount of money. Basically, Mr. Ratliff has
10 not produced the information.

11

12 BOB WILSON: Mr. Chairman, I have spoken to Mr.
13 Ratliff. We had notified him by mail and telephone prior to
14 the last hearing that he needed to provide us with an
15 accounting that was part of his duty as unit operator. For
16 the information of the Board members who may not be aware of
17 this, this particular unit was pooled by an individual who
18 operates as Ratliff Gas Company. It's my understanding that
19 the well was drilled on his property as a vertical
20 ventilation hole for coal mining. There was discovered that
21 maybe the coal company didn't have the right to be there. So
22 he took over the well. He pooled and operated the unit and
23 has produced a small amount of gas over the years for local

24

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1 use under permit and through proper channels once he got
2 organized there. The well has produced a very small amount
3 of gas and at the current time is not producing at all. I
4 think it's pretty well watered out. The escrow account
5 contains, as of the end of January, a total of \$529.11. That
6 is for all owners in that unit. The entire unit was subject
7 to escrow. So this is a total of everybody in the unit. I
8 talked to Mr. Ratliff recently. Mr. Ratliff says that his
9 records are lost and that he cannot produce a record of his
10 deposits into this account. He states that he can produce an
11 exact figure for the amount of revenue that he has received
12 from this well and that he would be happy to put an amount
13 equal to 12 1/2% of that into the escrow account, which would
14 cover all the claimants that were in it. It's my
15 understanding, again from conversations with him, no...I've
16 seen no documentation, that that would bring the account up
17 to somewhere around \$900 total. He would like to deduct the
18 amounts that he has paid in severance taxes from that, which
19 I think is probably a fairly standard practice when taxes are
20 prepaid. Apparently, he has paid all taxes on this from day
21 one. But his proposal, again by telephone, was that he would
22 put into the account an amount up to 12 1/2% of his total
23 revenues if the Board wanted to go that way. He declares he

24

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1 cannot produce an accounting because his records are lost.

2 BENNY WAMPLER: Well, I think we need to get him to
3 appear before the Board and put that on the record.

4 MASON BRENT: I agree.

5 BOB WILSON: I think we can do that.

6 BENNY WAMPLER: Then we can see if we agree to do
7 that or not based on what he can produce.

8 PETER GLUBIACK: I don't have any idea what else to
9 do.

10 BENNY WAMPLER: I'll ask you to set him for next
11 month.

12 BOB WILSON: Sure. I will do that. Is there a way
13 that we could take care of Mr. Glubiack's needs without him
14 having to drive back up here for that one items such that we
15 could---.

16 BENNY WAMPLER: Is there anything you need to put
17 on record other than what you already have? You can do that,
18 certainly.

19 PETER GLUBIACK: I guess the only problem is going
20 to be that I see is that do we...I don't have the...I didn't
21 bring that file.

22 BENNY WAMPLER: Uh-huh.

23 PETER GLUBIACK: I guess the original order would
24

1 have had relative percentages and there's no reasons that
2 that would have changed. So---.

3 BOB WILSON: Excuse me. Actually, if you remember
4 on this one, we had to get an affidavit from---.

5 PETER GLUBIACK: Right.

6 BOB WILSON: ---Mr. Ratliff stating the ownership
7 percentage of your clients. We have affidavit on file.

8 PETER GLUBIACK: So we have an affidavit on
9 file---?

10 BOB WILSON: Yes.

11 PETER GLUBIACK: ---of the relative percentages, at
12 least insofar as my client---?

13 BOB WILSON: Exactly.

14 PETER GLUBIACK: ---or two clients?

15 BOB WILSON: Just concerning your clients.

16 PETER GLUBIACK: And I would stipulate that---.

17 BENNY WAMPLER: As to whether or not you appear,
18 then, you know, that's your call.

19 PETER GLUBIACK: Right. I would stipulate that the
20 affidavit is accurate. I know my clients have seen it and
21 they think they agree. So, we'd ask simply that the interest
22 as specified in the...in the affidavit be protected and
23 ordered disbursed if we ever...if the Board comes to a
24

1 resolution with Mr. Ratliff.

2 BENNY WAMPLER: We'll continue this matter to next
3 month and ask Mr. Ratliff to come to the Board hearing and
4 we'll have that available. Thank you very much.

5 PETER GLUBIACK: Thank you, Mr. Wampler.

6 BENNY WAMPLER: The next item on the agenda is a
7 petition from CNX Gas Company, LLC for pooling of a coalbed
8 methane unit BD-120. This is docket number VGOB-05-0215-
9 1398. We'd ask the parties that wish to address the Board in
10 this matter to come forward at this time.

11 MARK SWARTZ: Mark Swartz and Les Arrington.

12 BENNY WAMPLER: Les, we'll need to get you sworn
13 in.

14 BENNY WAMPLER: The record will show there are no
15 others. You may proceed.

16 (Leslie K. Arrington is duly sworn.)

17 MARK SWARTZ: Mr. Chairman, we actually have
18 two...this is a Middle Ridge unit and we have one...one other
19 Middle Ridge unit, which is your docket number, I think it's
20 twelve, which is BI-106. I think it might save a little bit
21 of time to combine those.

22 BENNY WAMPLER: I'll also call a petition from CNX
23 Gas Company, LLC for pooling of a coalbed methane unit BI-
24

1 106, docket number VGOB-05-0215-1402. I'd ask the parties
2 that wish to address the Board in this matter to come forward
3 as well.

4 MARK SWARTZ: Mark Swartz and Les Arrington on that
5 one also.

6 BENNY WAMPLER: Let the record show there are no
7 others. You may proceed.

8

9 LESLIE K. ARRINGTON
10 having been duly sworn, was examined and testified as
11 follows:

12 DIRECT EXAMINATION

13 QUESTIONS BY MR. SWARTZ:

14 Q. Les, you need to state your name for us.

15 A. Leslie K. Arrington.

16 Q. Who do you work for?

17 A. CNX Gas Company.

18 Q. What do you do for them?

19 A. Manager of environmental permitting.

20 Q. Okay. We're here on two Middle Ridge units,
21 correct?

22 A. Yes.

23 Q. And both of these units, BD-120 and BI-106,
24

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1 contain 58.74 acres, is that correct?

2 A. Correct.

3 Q. The well in BD-120 is outside the drilling

4 window, correct?

5 A. In BD-120?

6 Q. Right.

7 A. I need to look.

8 Q. I'll show you that.

9 A. It says...yes, it is.

10 Q. The tract index shows that it's on

11 a...actually on a fee tract that you have this CBM leased?

12 A. Yes.

13 Q. Okay. In the...in BI-106, the plat, I

14 believe, shows that it's in the window?

15 A. Yes.

16 Q. Okay. Who is the applicant with regard to

17 both of these applications?

18 A. CNX Gas Company.

19 Q. Is CNX Gas Company, LLC a Virginia General

20 Partnership?

21 A. Yes.

22 Q. Is it an indirect wholly owned subsidiary of

23 Consol Energy, Inc.?

24

1 A. Yes.

2 Q. Is CNX authorized to do business in the
3 Commonwealth?

4 A. Yes.

5 Q. In both of these applications, I assume that
6 you're asking that an operator be designated, who is that?

7 A. CNX Gas.

8 Q. Okay. Is CNX Gas authorized, or is it
9 registered with the DMME and does it have a blanket bond on
10 file?

11 A. Yes, it does.

12 Q. In the...both the notice of hearing portions
13 of these applications and in Exhibit B-3 that was originally
14 filed, you listed certain people as respondents, correct?

15 A. We did.

16 Q. I think you filed today with the Board
17 members and with Mr. Wilson some revised exhibits with regard
18 to BD-120, is that correct?

19 A. We did.

20 Q. And you'll notice...they'll notice that
21 there's an Exhibit B-2 there?

22 A. Correct.

23 Q. And why have you prepared and tendered an
24

1 Exhibit B-2 today?

2 A. The party listed there has been leased.

3 Q. Okay. So to the extent that you've obtained

4 an additional lease as indicated in Exhibit B-2, are you

5 asking the Board to disburse the person...to dismiss the

6 person identified in Exhibit B-2 as a respondent with regard

7 to the pooling application for BD-120?

8 A. Yes, we are.

9 Q. Okay. And you've tendered a revised Exhibit

10 B-3, which deletes him from the people being pooled?

11 A. Correct.

12 Q. Okay. And then lastly, the revised Exhibit

13 A, page two would slightly change the percentages being

14 pooled?

15 A. Yes, it did.

16 Q. And that's why you've tendered that exhibit?

17 A. Yes.

18 Q. Okay. With regard to BI-106, are there any

19 revised exhibits?

20 A. No.

21 Q. So you don't want to add or subtract any

22 respondents from BI-106?

23 A. No.

24

1 Q. Okay. What did you do to notify the people
2 you're seeking to pool today with regard to this hearing?

3 A. For unit BD-120 and BI-106, we mailed by
4 certified mail return receipt requested on January 14th,
5 2005. For BD-120, we published in the Bluefield Daily
6 Telegraph on January 19th of 2005.

7 Q. And have you---?

8 A. For unit BI-106, we published in the
9 Bluefield Daily Telegraph January 28th of 2005.

10 Q. Okay. And have you filed your proofs of
11 publication that were supplied by the newspaper and
12 your...your mailing information with Mr. Wilson's office?

13 A. Yes, we have.

14 Q. Okay. With regard to these units, is the
15 plan for development one frac well in the unit?

16 A. Yes, it is.

17 Q. Okay. To the...in the event that the Board
18 should pool either of these units or both of these units,
19 what would be the lease terms that you would propose be
20 included in any order?

21 A. For a coalbed methane well, it's a dollar
22 per acre per year, a five year paid up term, with a one-
23 eighth production royalty.

24

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1 Q. Okay. And at the time the production
2 royalty would commence, the rental would cease?

3 A. Yes, it does.

4 Q. Okay. The...with regard to...let's start
5 with BD-120. Would you tell the Board what interests you've
6 been able to acquire and what you're seeking to pool today,
7 bearing in mind that we've got a revised Exhibit A, page two.

8 A. Yes. We've leased 93.2414% of the coal
9 owner's claim to coalbed methane; 85.5465% of the oil and gas
10 owner's claim to coalbed methane. We're seeking to pool
11 6.7586% of the coal owner's claim to coalbed methane; and
12 14.4535% of the oil and gas owner's claim to coalbed methane.

13 Q. Okay. Have you filed your estimated costs
14 with regard to this well?

15 A. Yes, we have. For this well it was
16 \$244,424.23 to a depth of 2,661 feet. Its permit number is
17 6536.

18 Q. Okay, and this has not been drilled just
19 yet?

20 A. No.

21 Q. Okay. In...in this it appears to me
22 that...that there's some escrow requirements---?

23 A. Yes, it is.

24

--

1 Q. ---it meaning in BD-120?

2 A. Yes.

3 Q. The escrow requirements with regard to

4 conflicts, do they...would they include escrow of tracts and

5 sub accounts for tracts 1-B as in boy, 1-C as in Charles, 1-D

6 as in David, 1-F as in Frank, 1-H as in Henry, 1-I as in

7 iota, 1-K...I'm sorry, 1-J as in John, 1-K as in Kappa, 1-L

8 as in Larry, 1-N as in Nelly, 1-P as in Paul, 1-Q as in

9 quota, 1-R as in Robert, 1-S as in Sam, and 1-T as in Tom?

10 A. Yes.

11 Q. And with regard to an escrow for either

12 address issues or unknowns, is there...is there a further

13 escrow requirement?

14 A. Yes, it is.

15 Q. And with regard to what tract would that be?

16 A. 1-I.

17 Q. Okay. I had a note that perhaps we had the

18 same issue in 1-T. Let me look here. Or is that...I think

19 that we may not, this could be three.

20 BENNY WAMPLER: I think you did. Coal ownership

21 on page seven.

22 A. Yes.

23 Q. Do we have...so 1-T would also---?

24

1 A. Yes.

2 Q. ---should also be included in the list.

3 Okay. Have...have...are there folks in Unit BD-120 that have

4 in the split agreements?

5 A. Yes, it is.

6 Q. Okay. And...and their split agreements are

7 50/50 agreements as you recall?

8 A. Yes.

9 Q. And...and what tracts do those pertain to?

10 A. 1-C, 1-E, 1-G, 1-L, 1-M, 1-O and 1-S.

11 Q. Okay. And would you request that any order

12 that the Board might enter with regard to BD-120 allow you to

13 pay the folks with split agreements directly in accord with

14 their agreements as opposed to escrowing?

15 A. Yes, we would.

16 Q. Okay. Turning now to unit BI-106, with

17 regard to that, there's only one respondent, correct?

18 A. Yes.

19 Q. And in fact, we had a number of units

20 involving him last month?

21 A. Yes.

22 Q. And he's actually in favor of---?

23 A. Yes.

24

--

1 Q. ---the pooling? What...what is the
2 percentage that you've been able to acquire and what are you
3 seeking to pool here with regard to Mr. Gent?

4 A. 99.86% of the coal, oil and gas interest for
5 coalbed methane is leased and we're seeking to pool 0.14% of
6 the coal, oil and gas owner's claim to coalbed methane.

7 Q. Okay. And...and...have you submitted a well
8 estimate?

9 A. Yes, we have.

10 Q. And what does that show?

11 A. \$241,135.85 to a depth of 2,895 feet. And
12 permit number is 6538.

13 Q. And that hasn't been drilled yet?

14 A. No.

15 Q. And with regard to this we've...we're
16 pooling a fee owner, so there's no escrow requirement?

17 A. Correct.

18 Q. And you know who everybody is?

19 A. Yes.

20 Q. With regard to these two units as your..is
21 it your opinion that the plan for development is specifically
22 to drill one frac well in each of these units is a reasonable
23 plan to develop the coalbed methane here?

24

--

1 A. Yes, it is.

2 Q. And is it your opinion that if you take the

3 pooling orders that might be entered here by the Board and

4 combine those with your leasing efforts, the correlative

5 rights of all the owners and claimants would be protected?

6 A. Yes.

7 MR. SWARTZ: That's all I have, Mr. Chairman.

8 BENNY WAMPLER: Questions from members of the

9 Board?

10 (No audible response).

11 BENNY WAMPLER: Do you have anything, Mr. Wilson?

12 BOB WILSON: No, sir.

13 BENNY WAMPLER: Is there a motion?

14 MASON BRENT: I move that...move that we approve

15 it, Mr. Chairman.

16 PEGGY BARBAR: Second.

17 BENNY WAMPLER: Motion to approve, and second.

18 Any further discussion?

19 (No audible response).

20 BENNY WAMPLER: All in favor signify by saying

21 yes.

22 (All members signify in the affirmative).

23 BENNY WAMPLER: Opposed say no. You have

24

1 approval. The next item on the agenda is a petition from CNX
2 Gas Company, LLC for pooling of coalbed methane Unit BF-98,
3 docket number VGOB-05-0215-1399. We'd ask the parties that
4 wish to address the Board in this matter to come forward at
5 this time.

6 MARK SWARTZ: Mark Swartz and Les Arrington.

7 BENNY WAMPLER: Let the record show there are no
8 others. You may proceed.

9 MARK SWARTZ: This is actually, Mr. Chairman, one
10 of three Nora units. The next two docket items are also
11 Nora's and it might save a little bit of time to...to combine
12 these.

13 BENNY WAMPLER: Okay. I'll go ahead and call
14 those. Petition from CNX Gas Company, LLC for pooling
15 coalbed methane unit B...excuse me, BF-102, docket number
16 VGOB-05-0215-1400. And unit BG-103, docket number VGOB-05-
17 0215-1401. We'd ask the parties that wish to address the
18 Board in these matters to come forward at this time.

19 MARK SWARTZ: Mark Swartz and Les Arrington.

20 BENNY WAMPLER: The record shows no others. You may
21 proceed.

22 MARK SWARTZ: Mr. Chairman, I would like to
23 incorporate from the prior hearing the information regarding
24

1 the applicant, the designated unit operator and the standard
2 lease terms.

3 BENNY WAMPLER: That will be incorporated.

4 MARK SWARTZ: Thank you.

5 LESLIE K. ARRINGTON

6 having been duly sworn, was examined and testifies as
7 follows:

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. SWARTZ:

10 Q. Les, you need to state your name again.

11 A. Leslie K. Arrington.

12 Q. Who do you work for?

13 A. CNX Gas Company.

14 Q. Okay. With regard to these three units that
15 we're talking about in this combined hearing, specifically
16 BF-98, BF-102, and BG-103, who is the...the applicant?

17 A. CNX Gas.

18 Q. And the same would be true for the
19 designated operator?

20 A. Yes, it is.

21 Q. Okay. Have you listed, with regard to these
22 three units, in both a notice of hearing and in the Exhibit
23 B-3 as originally filed, the folks that you were seeking to
24

1 pool?

2 A. Yes, we did.

3 Q. Okay. With regard only to BF-98, there have
4 been some changes---?

5 A. Yes.

6 Q. ---is that correct?

7 A. That's correct.

8 Q. Have you filed this morning with the Board
9 some revised exhibits with regard to BF-98?

10 A. Yes, we have.

11 Q. Okay. And...and were the revisions required
12 because you were able to obtain additional leases?

13 A. Yes, and also to indicate that we had
14 someone listed that was...that was not an heir.

15 Q. Okay. So, if we look at Exhibit B-2, which
16 was filed today, there...there is an identification of the
17 folks that you're...that you're addressing in Exhibit B-2 as
18 parties that ought to be dismissed today?

19 A. Correct.

20 Q. And then in the far right hand column, there
21 is actually an explanation?

22 A. Yes, it is.

23 Q. With regard to Tract 3-A and Clarence Harris
24

1 and Lois Ann Harris, et al, you've determined after finding
2 that these folks were not heirs and there's no reason to pool
3 them?

4 A. That's correct.

5 Q. And then with regard to Mr. Barton, Mr.
6 Baldwin and Phyllis Wampler, you have been able to lease
7 those people since the pooling applications were filed?

8 A. Yes, we have.

9 Q. And you'd like to dismiss those for the
10 reason that you have leased them?

11 A. Yes.

12 Q. Okay. So, that explains why we have an
13 Exhibit B-2. Is the...are the revisions to Exhibit B-3 that
14 you filed today concerning BF-98 simply limited to
15 straightening out the record in light of the dismissals
16 requested in B-2?

17 A. Yes, it is.

18 Q. Okay. What about revised Exhibit EE?

19 A. The same.

20 Q. Same?

21 A. Same thing.

22 Q. Same. And revised Exhibit A, page two is
23 changed because you've leased some folks and so the

24

--

1 percentages sought to be pooled would change?

2 A. Yes.

3 Q. Okay. What did you do to notify the folks
4 that you are seeking to pool in these three applications of
5 the hearing today?

6 A. In all these cases we mailed by certified
7 mail certified...return receipt requested on January 14,
8 2005. BF-98, we published in the Bluefield Daily Telegraph
9 January 21, 2005; BF-102, we published in the Bluefield Daily
10 Telegraph January 24, 2005; and BG-103, we published in the
11 Bluefield Daily Telegraph on January 26, 2005.

12 Q. Okay. And...and have you filed your proofs
13 of mailing and the certificates from the newspaper with
14 regard to the publication with Mr. Wilson today?

15 A. Yes, we have.

16 Q. Okay. Tell the Board what, you know, bear
17 in mind that we've got a revised Exhibit A, page two
18 concerning BF-98, but tell the Board what you have been able
19 to acquire in each of these units and what you're seeking to
20 pool...to pool?

21 A. BF-98, we've acquired 100% of the coal
22 owner's claim to coalbed methane; 87.7509% of the oil and gas
23 owner's claim to coalbed methane. We're seeking to pool

24

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1 12.2491% of the oil and gas owner's claim to coalbed methane,
2 BF-98. In BF-102, we have acquired 100% of the coal owner's
3 claim to coalbed methane; 91.2278% of the oil and gas owner's
4 claim to coalbed methane. We're seeking to pool 8.7722% of
5 the oil and gas owner's claim to coalbed methane. BG-103, we
6 have leased 100% of the coal owner's claim to coalbed
7 methane; 98.6569% of the oil and gas owner's claim to coalbed
8 methane. We're seeking to pool 1.3431% of the oil and gas
9 owner's claim to coalbed methane.

10 Q. Okay. Looks like there was a math error in
11 the original Exhibit A, page two regarding BF-98.

12 A. Yes.

13 Q. It was...it should have been something in
14 the order of 16%.

15 A. Yes.

16 Q. So if you compare the revised Exhibit to the
17 original, it doesn't make a lot of sense unless you note that
18 there was an error.

19 A. No, right.

20 Q. Okay. I thought I would anticipate some
21 questions from a professor, you know.

22 BILL HARRIS: I was looking.

23 Q. Okay. Have...with regard to these...these

24

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1 units, Les, have you filed documentation with regard to the
2 well costs?

3 A. Yes, we have.

4 Q. Okay. Just take them one at a time and
5 share that information with us.

6 A. For BF-98, our estimated costs is
7 \$248,068.65, to a depth of 2...2,575 feet. Permit number is
8 6529. BF-102, the estimated cost is \$201,000...\$201,282.22,
9 to a depth of 2,558.3 feet. Permit number is 6394. For BG-
10 103, the estimated cost is \$203,459.89, to a depth of
11 2,718.76 feet. Permit number is 6393.

12 Q. Okay. And BF-98 has not been drilled but
13 the other two have?

14 A. That's correct.

15 Q. Okay. With regard to these three units,
16 they're...they're all...all three of them are Nora units,
17 obviously?

18 A. Yes.

19 Q. Why don't you give the Board the acreages
20 because they are slightly different.

21 A. Yes. BF-98 was 58.78 acres; BF-102 is 58.77
22 acres; BG-103 is 58.76 acres.

23 Q. Okay. My review of the plats indicate that
24

1 the well in BF-98 is not in the drilling window but with
2 regard to other two units it is, is that your recollection?
3 A. BF-102, I need to look at. It indicates it
4 is not.
5 Q. Okay. Here's your plat.
6 A. Yes, it is.
7 Q. Okay. So, your recollection is the well in
8 BF-98 is not in the window and in the other two units, it is?
9 A. It is.
10 Q. Okay.
11 A. That's correct.
12 Q. And the proposal is one well per unit?
13 A. Yes.
14 Q. Okay. Let's start with...let's look at
15 escrow requirements here and let's start with BF-98. You've
16 got an unknowns, unlocateables escrow requirement in Tract
17 3-A, correct?
18 A. Yes, we do.
19 Q. And then you have conflicts that require
20 escrow in Tracts 3-A, 3-B, 3-C, 3-D, 3-E, 3-F, 3-G and 3-H,
21 is that correct?
22 A. Correct.
23 Q. And you have a split agreement on a 50/50
24

1 basis affecting Tract 3-A that's the subject of your Exhibit
2 EE?

3 A. Yes, it is.

4 Q. Okay. With regard to BG-102, we have an
5 escrow requirement for unknowns or unlocateables in Tracts 3-
6 A, 3-B and 3-C, right?

7 A. Yes, and that would be BF-102.

8 Q. Correct. And conflicts...Okay. And then
9 you have escrow requirement...an escrow requirement for
10 conflicts in 2-A, 2-B, 3-A, 3-B, and I guess 3-C?

11 A. Yes.

12 Q. You have no split agreements in this unit?

13 A. Correct.

14 Q. Okay. Turning to the last unit under
15 consideration here, BG-103, you've again got an unknown,
16 unlocateable escrow requirement and this time in two tracts,
17 correct?

18 A. 1-C and 2-A.

19 Q. All right. And then we've got a conflicts
20 issue and we've also got a title issue, sort of an either/or,
21 correct?

22 A. Yes.

23 Q. The conflicts escrow requirement pertains to
24

1 Tracts 1-A, 1-B, 1-C, 2-A, 2-B and 2-C. And the title
2 problem pertains to all the tracts except one, but
3 I'll...I'll read the ones that it pertains to. It...the
4 title conflict requirement pertains to 1-A, 1-B, 1-C, 2-B and
5 2-C, and does not pertain to 2-A.

6 A. Correct.

7 Q. Okay. With regard to these three units, is
8 it your opinion that the plan to develop the coalbed methane
9 under these units and to allocate what we recover to these
10 units which is to drill one frac well in these units is a
11 reasonable plan to do that?

12 A. Yes, it is.

13 Q. And is it also your opinion that if you take
14 the leasing efforts and acquisition efforts that CNX has made
15 before today and combine those with a pooling order, those
16 two events will serve to protect the correlative rights of
17 everybody who has claims in these three units?

18 A. Yes.

19 MR. SWARTZ: That's all I have, Mr. Chairman.

20 BENNY WAMPLER: Questions from members of the
21 Board?

22 MASON BRENT: Just one, Mr. Chairman.

23 BENNY WAMPLER: Go ahead.
24
25

1 MASON BRENT: Mr. Swartz, in BF-102 you didn't
2 mention, but it appears you also have a title conflict there
3 in Tract 2-A.

4 MARK SWARTZ: BF-102...I may have missed...what
5 Tract?

6 MASON BRENT: 2-A.

7 MARK SWARTZ: 2-A, okay.

8 LESLIE K. ARRINGTON: Yes.

9 MARK SWARTZ: Yes. So, we need to add 2-A for a
10 title escrow requirement in BF-102.

11 BENNY WAMPLER: Other questions from members of
12 the Board?

13 (No audible response).

14 BENNY WAMPLER: Mr. Wilson, do you have anything?

15 BOB WILSON: No, sir.

16 BENNY WAMPLER: Is there a motion?

17 MASON BRENT: Mr. Chairman, I move that we approve
18 the applications.

19 BILL HARRIS: Second the motion.

20 BENNY WAMPLER: Motion for approval and second.
21 Any further discussion?

22 (No audible response).

23 BENNY WAMPLER: All in favor, signify by saying
24

--

1 yes.

2 (All members signify in the affirmative).

3 BENNY WAMPLER: Opposed, say no. You have
4 approval. Is that clear, you're---.

5 MARK SWARTZ: Yes.

6 BENNY WAMPLER: Okay. We'll take a...I don't
7 believe our other parties are in here at this time but
8 they...they're here, just not in..in the room. So, we'll
9 take a ten minute recess.

10 LESLIE K. ARRINGTON: Thank you all. I appreciate
11 it.

12 BENNY WAMPLER: Thank you, Mr. Arrington.

13 (Off record).

14 BENNY WAMPLER: Okay. We'll come to order. The
15 next item on the agenda is a petition from Equitable
16 Production Company for pooling of coalbed methane unit VC-
17 551130. This is docket number VGOB-05-0215-1403. We'd ask
18 the parties that wish to address the Board in this matter to
19 come forward at this time.

20 JIM KISER: Mr. Chairman, Jim Kiser and Don Hall
21 on behalf of Equitable Production Company.

22 BENNY WAMPLER: Let the record show there are no
23 others. You may proceed.

24

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1 In (Witness is sworn.)

2 DON HALL

3 Having been duly sworn, was examined and testifies as
4 follows:

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. KISER:

7 Q. Mr. Hall, if you'd state your name for the
8 Board, who you're employed by and what capacity.

9 A. My name is Don Hall. I'm employed by
10 Equitable Production Company as District Land Man.

11 Q. And your responsibilities include the land
12 involved in this unit?

13 A. They do.

14 Q. And are you familiar with the application we
15 filed seeking to pool any unleased interest for EPC well
16 number VC-551130, which was dated January 13, 2005?

17 A. Yes, sir.

18 Q. And does Equitable own drilling rights in
19 the unit involved here?

20 A. We do.

21 Q. And prior to filing an application, were
22 efforts made to contact each of respondents and an attempt
23 made to work out a voluntary lease agreement with each of the
24

--

1 respondents?

2 A. Yes, sir.

3 Q. What is the interest under lease to

4 Equitable within the gas estate?

5 A. We have 98.02% leased.

6 Q. And the coal estate?

7 A. 100%.

8 Q. And all the unleased parties are set out in

9 Exhibit B-3?

10 A. Yes.

11 Q. And in fact, this is again the...the unknown

12 I. B. McReynolds heirs that we've pooled on numerous

13 occasions and that we also list Mr. Lowell Counts in the CNR

14 Associates as a possible claimant to this particular

15 interest?

16 A. Yes.

17 Q. Okay. So, what percentage of the gas estate

18 remains unleased?

19 A. 1.98%.

20 Q. Okay. We do have the unknown I. B.

21 McReynolds heirs. Again, have you over the last year, year

22 and a half, attempted to identify and locate those heirs by

23 consulting primary sources such as deed records, probate

24

1 records, assessor's records, treasurers records and secondary
2 sources such as telephone directories, city directories,
3 family and friends?

4 A. Yes.

5 Q. In your professional opinion, was due
6 diligence exercised to locate each of respondents named in
7 Exhibit B and B-3?

8 A. Yes.

9 Q. Are the addresses set out in Exhibit B of
10 the application the last known addresses for the respondents?

11 A. Yes.

12 Q. Are you requesting this Board to force pool
13 all unleased interests listed at Exhibit B-3?

14 A. Yes.

15 Q. Now, are you familiar with the fair market
16 value of drilling rights in the unit here and in the
17 surrounding area?

18 A. Yes.

19 Q. Could you advise the Board as to what those
20 are?

21 A. A five dollar bonus on a five year term with
22 a one-eighth royalty.

23 Q. And in your professional opinion, do the
24

1 terms you just testified to represent fair market value of
2 and fair and reasonable compensation to be paid for drilling
3 rights within this unit?

4 A. They do.

5 Q. Now, as to any unknown McReynolds heirs that
6 come forward and/or CNR Associates if they could prove to us
7 how they have part of that McReynolds interest, which they
8 are still attempting to do, in fact, I met with Mr. Counts
9 again this week, still not getting that to me, but do you
10 agree that they be allowed the following options with respect
11 to their ownership interest within the unit: 1)
12 participation; 2) a cash bonus of five dollars per net
13 mineral acre, plus one-eighth of eight-eighths royalty; or 3)
14 in lieu of a cash bonus of one-eighth of eight eighths
15 royalty a share in the operation of the well on a carried
16 basis as a carried operator under the following conditions:
17 Such carried operator shall be entitled to the share of
18 production from the tracts pooled accruing to his interest
19 exclusive of any royalty or overriding royalty reserved in
20 any leases or assignments thereof or agreements relating
21 thereto of such tracts but only after the proceeds applicable
22 to his share equal 300% of his share of such cost for a
23 leased tract or 200% of the share of such costs for an

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1 unleased tract?

2 A. Yes.

3 Q. Do you recommend the order provide the
4 elections by respondents be in writing and sent to the
5 applicant in Equitable Production Company, 1710 Pennsylvania
6 Avenue, P.O. Box 2347, Charleston, West Virginia, 25328,
7 Attention: Melanie Freeman, Regulatory?

8 A. Yes.

9 Q. And should this be the address for all
10 communications with the applicant concerning any forced
11 pooling order?

12 A. It should.

13 Q. Do you recommend that the order provide that
14 if no written election is properly made by a respondent, then
15 such respondent should be deemed to have elected to cash
16 royalty option in lieu of any participation?

17 A. Yes.

18 Q. Should unleased respondents be given 30 days
19 from the date that they receive the Board order and their
20 election letter to file their written elections?

21 A. Yes.

22 Q. And if an unleased respondent elects to
23 participate, should they be given 45 days to pay the

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1 applicant for respondent's proportionate share of actual
2 completed for production well cost?

3 A. Yes.

4 Q. Does the applicant expect the party electing
5 to participate to pay in advance that party's share of
6 completed well cost?

7 A. We do.

8 Q. Should the applicant be given 120 days
9 following the recording day of the Board order and thereafter
10 annually on that date until production is achieved to pay or
11 tender any cash bonus or delay rental becoming due under any
12 forced pooling order?

13 A. Yes.

14 Q. Do you recommend the order provide that if
15 the respondent elects to participate but fails to pay the
16 proportionate share of well cost, then respondent's election
17 to participate should be treated as having been withdrawn and
18 void and that respondent should be treated as if no initial
19 election had been filed under the order?

20 A. Yes.

21 Q. Do you recommend that the order provide that
22 where a respondent elects to participate but defaults in
23 regard to payment of well cost, any cash sum becoming payable

24

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1 that respondent pay within 60 days after the last date on
2 which that respondent could have paid those costs?

3 A. Yes.

4 Q. Okay. We do have a unknown interest, was it
5 in Tract 3?

6 A. Yes.

7 Q. In Tract 3. So, the Board does need to
8 establish an escrow account for that---?

9 A. That's correct.

10 Q. ---tract, correct?

11 A. That's correct.

12 Q. And who should be named the operator under
13 the forced pooling order?

14 A. Equitable Production Company.

15 Q. And what is the total depth of the planned
16 well?

17 A. 2809 feet.

18 Q. Estimated reserves for the unit?

19 A. 300 million cubic feet.

20 Q. Are you familiar with the cost for this
21 well?

22 A. Yes, sir.

23 Q. Has an AFE been reviewed, signed and
24

1 submitted to the Board as Exhibit C?

2 A. It is.

3 Q. Was it prepared by an engineering department
4 knowledgeable in preparation of AFE's and knowledgeable in
5 particular to well cost in this area?

6 A. Yes.

7 Q. In your opinion, does it represent a
8 reasonable estimate of the well cost?

9 A. It does.

10 Q. Could you state both the dry hole cost and
11 the completed well cost?

12 A. Dry hole cost is \$116,242, and completed
13 well cost is \$279,324.

14 Q. Do these costs anticipate a multiple
15 completion?

16 A. They do.

17 Q. Does your AFE include a reasonable charge
18 for supervision?

19 A. Yes.

20 Q. And in your professional opinion, would the
21 granting of this application be in the best interest for
22 conservation, the prevention of waste and the protection of
23 correlative rights?

24

1 A. Yes.

2 JIM KISER: Nothing further of this witness at this
3 time, Mr. Chairman.

4 BENNY WAMPLER: Mr. Hall, has the Pine Mountain
5 Oil and Gas, Incorporated, have they changed hands? Do they
6 go under an Alpha umbrella or not, there's still a---?

7 A. Well, Pine Mountain is...Alpha is the coal
8 owner, Pine Mountain is the CBM owner...coalbed methane.

9 BENNY WAMPLER: Okay. So, it's still that entity?

10 JIM KISER: Oil, gas and CBM. Yeah.

11 DON HALL: Yes, it's still that entity.

12 BENNY WAMPLER: Okay.

13 DON HALL: They own the oil and gas and the CBM.
14 When the separation was made, they retained any claim to the
15 CBM as well.

16 BENNY WAMPLER: Okay.

17 JIM KISER: And they've kept the same name even
18 through---.

19 DON HALL: Even through today.

20 JIM KISER: ---two more, yeah. They've been sold
21 twice again.

22 BENNY WAMPLER: Questions from members of the
23 Board?

24

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1 (No audible response).

2 BENNY WAMPLER: Do you have anything further?

3 JIM KISER: Mr. Chairman, we'd ask that the

4 application be approved as submitted.

5 BENNY WAMPLER: Is there a motion?

6 BILL HARRIS: Mr. Chairman, a motion for approval.

7 PEGGY BARBAR: I'll second.

8 BENNY WAMPLER: Motion and second. Any further

9 discussion?

10 (No audible response).

11 BENNY WAMPLER: All in favor, signify by saying

12 yes.

13 (All members signify in the affirmative).

14 BENNY WAMPLER: Opposed, say no. You have

15 approval. The next item on the agenda is a petition from

16 Equitable Production Company for pooling of coalbed methane

17 unit VC-536062. This is docket number VGOB-05-0215-1404.

18 We'd ask the parties that wish to address the Board in this

19 matter to come forward at this time.

20 JIM KISER: Again, Mr. Chairman and Board members,

21 Jim Kiser and Don Hall. We do have the revised set of

22 exhibits for this well. In fact, we came in here this

23 morning thinking we might be able to withdraw this when we

24

1 got down to just one unleased interest but we haven't gotten
2 it leased, so we're going to go ahead and go forward.

3 BENNY WAMPLER: The record show there are no
4 others. You may proceed.

5 DON HALL
6 having been duly sworn, was examined and testifies as
7 follows:

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. KISER:

10 Q. Mr. Hall, again state your name for the
11 Board and who you're employed by and in what capacity?

12 A. Don Hall. I'm employed by Equitable
13 Production Company as District Land Man.

14 Q. And you're familiar with the application we
15 filed for this well, 536062, dated January 13th seeking to
16 pool any unleased interest?

17 A. Yes.

18 Q. Okay. And, now does Equitable own drilling
19 rights in the unit involved here?

20 A. We do.

21 Q. And prior to filing the application and
22 after filing of the application, did you continue to attempt
23 to reach a voluntary agreement with any of the respondents
24

1 named?

2 A. We did.

3 Q. Okay. Now, at the time we filed the
4 application the interest under lease to Equitable within the
5 gas estate in the unit was 95.18%?

6 A. Yes.

7 Q. Okay. And the interest of Equitable under
8 lease in the coal estate within the unit was 100%?

9 A. That's correct.

10 Q. Correct? Now, since that time...since the
11 time we filed this on January 13th, you've continued to
12 attempt to reach or get voluntary leases from the unleased
13 parties in the gas estate and we have been successful in
14 obtaining some of those and that's why we have this revised
15 package of exhibits, being B, B-3 and E. Can you go
16 through...or B-2 also...and go through those exhibits and
17 explain to the Board what's happened since we filed the
18 application?

19 A. Well, we picked up...looking at Exhibit B-2
20 we leased those parties in Tract 1 and the one party in Tract
21 4 since last...since we made application and leaving only one
22 unleased party which we think we are probably still going to
23 get but...and this could possibly be dismissed later but as

24

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1 of right now, we don't have that last party.

2 Q. All right. So the only interest at this
3 time within the unit that remains unleased is the N. Gay
4 McCallister and James McCallister point...0.802 interest in
5 Tract 1---?

6 A. That's correct.

7 Q. ---in the gas estate?

8 A. Uh-huh.

9 Q. Okay. And we don't have any unknown people,
10 right?

11 A. No.

12 Q. And in your professional opinion, was due
13 diligence exercised to locate each of the respondents named
14 in these Exhibits?

15 A. Yes.

16 Q. And are the addresses set out in revised
17 Exhibit B the last known addresses for the respondents?

18 A. They are.

19 Q. Are you requesting this Board to force pool
20 the one unleased interest listed in the revised Exhibit B-3?

21 A. Yes.

22 Q. Again, are you familiar with the fair market
23 value of drilling rights in the unit here and in the

24

--

1 surrounding area?

2 A. Yes.

3 Q. Again, advise the Board as to what those
4 are.

5 A. Five dollar bonus and a five year term with
6 a one-eighth royalty.

7 Q. In your professional opinion, do the terms
8 you just testified to represent fair market value of and fair
9 and reasonable compensation to be paid for drilling rights
10 within this unit?

11 A. They do.

12 JIM KISER: Mr. Chairman, as to the testimony
13 regarding the statutory elections afforded any unleased
14 parties, we'd ask that that testimony that was taken
15 previously in 050215-1403 this morning be incorporated for
16 purposes of this hearing.

17 BENNY WAMPLER: That will be incorporated.

18 Q. Mr. Hall, we do have conflicting claims?

19 A. That's correct.

20 Q. So, we...the Board does need to establish an
21 escrow account for Tracts 1, 2 and 4?

22 A. That's correct.

23 Q. Okay. And who should be named the operator
24

--

1 under any forced pooling order?

2 A. Equitable Production Company.

3 Q. And what is the total depth of this proposed

4 well?

5 A. 2,045 feet.

6 Q. And what are the estimated reserves for this

7 unit?

8 A. 270 feet...275 million cubic feet.

9 Q. And are you familiar with the well cost for

10 this particular well?

11 A. Yes.

12 Q. Has an AFE been reviewed, signed and

13 submitted as Exhibit C to the application?

14 A. It has.

15 Q. In your opinion, does it represent a

16 reasonable estimate of the well cost?

17 A. Yes.

18 Q. Could you state for the Board both a dry

19 hole and completed well cost for this well?

20 A. Dry hole cost is \$116,969, and completed

21 well cost is \$268,787.

22 Q. And do these costs anticipate a multiple

23 completion?

24

1 A. They do.

2 Q. Does your AFE include a reasonable charge
3 for supervision?

4 A. Yes.

5 Q. In your professional opinion, would the
6 granting of this application be in the best interest of
7 conservation, the prevention of waste and the protection of
8 correlative rights?

9 A. It does.

10 JIM KISER: Nothing further of this witness at this
11 time, Mr. Chairman.

12 BENNY WAMPLER: Questions from members of the
13 Board?

14 BILL HARRIS: Mr. Chairman---.

15 BENNY WAMPLER: Mr. Harris.

16 BILL HARRIS: ---just a question about the
17 location of the...of the well.

18 BENNY WAMPLER: Uh-huh.

19 BILL HARRIS: Was there a reason why that's....I
20 know that's outside the standard drilling window but it's
21 in---.

22 Q. Did you apply for a location exception or
23 were you in the permitting process?

24

1 A. Yes. The permit has been applied for
2 and...and the permitting process, we'll ask for a location
3 exception. And there's probably a spot chosen by the coal
4 company, I would imagine. I...I'm not sure as to that but
5 that's a location exception that's handled through the
6 permitting process rather than---.

7 BILL HARRIS: Yeah, I was just curious. I saw
8 that Hardwood Forest Land Fund owning the surface in Tract 3.
9 I didn't know if that had any influence on that or not.

10 DON HALL: No, that's...well, actually that's the
11 old coal company property that once the split was made a
12 couple of years ago, that's who ended up with the surface.

13 BILL HARRIS: Thank you.

14 BENNY WAMPLER: Other questions from members of
15 the Board?

16 (No audible response).

17 BENNY WAMPLER: Do you have anything further, Mr.
18 Kiser?

19 JIM KISER: Mr. Chairman, we'd ask that the
20 application be approved with the revised set of exhibits.

21 BENNY WAMPLER: Is there a motion?

22 BILL HARRIS: So moved to approve.

23 MASON BRENT: Second.

24

--

1 BENNY WAMPLER: And second. Any further discussion?
2 (No audible response).
3 BENNY WAMPLER: All in favor, signify by saying
4 yes.
5 (All members signify in the affirmative).
6 BENNY WAMPLER: Opposed, say no. You have
7 approval. Thank you.
8 The next item on the agenda is a petition from Hard
9 Rock Exploration, Incorporated for pooling of conventional
10 gas unit HRVAE #7. This is docket number VGOB-05-0215-1405.
11 We'd ask that the parties that wish to address the Board in
12 this matter to come forward at this time.
13 JIM KISER: Mr. Chairman, Jim Kiser on behalf of
14 Hard Rock Exploration and we have two witnesses in this
15 matter, Mr. Jim Talkington and Mr. Jim Stevens. I'd ask that
16 they be sworn at this time.
17 (Witnesses are sworn.)
18 BENNY WAMPLER: Let the record show there are no
19 others. You may proceed.
20 JIM KISER: Okay. We'll start with Mr. Talkington
21 on land issues.
22 JIM TALKINGTON
23 having been duly sworn, was examined and testifies as
24

1 follows:

2 DIRECT EXAMINATION

3 QUESTIONS BY MR. KISER:

4 Q. Mr. Talkington, you're...can you state who
5 you're employed by in this particular instance and in what
6 capacity and you've testified previously before the Board, I
7 guess, even last month, is that right?

8 A. Yes, sir. Hard Rock Exploration, Land Man.

9 Q. And you're responsibilities include the
10 lands involved in this unit and the surrounding prospect
11 area?

12 A. They do.

13 Q. And are you familiar with the application we
14 filed seeking to establish a drilling unit and pool any
15 unleased interest for Hard Rock well number seven, which was
16 dated January 13, 2005?

17 A. Yes, sir, I am.

18 Q. Does Hard Rock own drilling rights in the
19 unit involved here?

20 A. Yes, they do.

21 Q. Now, prior to filing the application, were
22 efforts made to contact each of the respondents within the
23 unit in an attempt to work out some sort of agreement
24

1 regarding the development of the unit involved?

2 A. Yes, they were.

3 Q. Okay. And this is...well, what is the
4 interest of Hard Rock Exploration that's under lease within
5 the unit?

6 A. 80.2%.

7 Q. Okay. And the...and that represents Tract
8 1, it's a free tract unit. And Tracts 2 and 3 are owned
9 undivided by Yukon Pocahontas and some other entities and
10 then Plum Creek Timber, and they are both under the
11 conventional gas. This is a statewide spacing well, not a
12 Pilgrim's Knob well, by the way. But anyway, these...both
13 those tracts are under a conventional oil and gas lease with
14 EOG resources, is that correct?

15 A. That's correct.

16 Q. And at this time as, I guess, last month
17 when we were here it was going on, the principals and the
18 attorney that they have working on this are negotiating a, I
19 hate to use the word global, but they're negotiating a
20 widespread or wider spread JOA to cover any development in
21 this area with the folks at EOG, is that correct?

22 A. That's correct.

23 Q. Okay. And that's in...that's in progress

24

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1 and hopefully we'll come to fruition at some point. And of
2 course, they've been noticed about this and know what's going
3 on, so at this point what percentage do those two tracts
4 represent that aren't currently under lease or...or any kind
5 of joint agreement with Hard Rock?

6 A. 19.8%.

7 Q. Okay. So, and those two tracts are set out
8 as being unleased in Exhibit B-3, correct?

9 A. That's correct.

10 Q. Okay. Now, in your professional opinion,
11 was due diligence exercised to locate each of the respondents
12 named herein?

13 A. Yes, it was.

14 Q. And are the addresses set out in Exhibit B
15 of the application the last known addresses for the
16 respondents?

17 A. Yes, they are.

18 Q. Are you requesting the Board to force pool
19 all those interests listed at Exhibit B-3 as unleased?

20 A. Yes, we are.

21 Q. We don't have any unknown entities?

22 A. No.

23 Q. Now, are you familiar with the fair market
24

1 value of drilling rights in the unit here and in the
2 surrounding area?

3 A. I am.

4 Q. Could you advise the Board as to what those
5 are?

6 A. A five dollar bonus, five dollar per acre
7 term...or five dollars per acre per year five year term and a
8 one-eighth royalty.

9 Q. And in your opinion, do the terms you just
10 testified to represent the fair market value of and fair and
11 reasonable compensation to be paid for drilling rights within
12 this unit?

13 A. Yes.

14 Q. Now, as to the EOG interest, they will be
15 afforded their...if for some reason a voluntary agreement is
16 not worked out, then they'll be afforded their three
17 statutory options of direct participation, leased or to be
18 carried, is that correct?

19 A. That's correct.

20 Q. And do you recommend that the order provide
21 that elections by respondents be in writing and sent to the
22 applicant at Hard Rock Exploration, Inc., P.O. Box 13059,
23 Charleston, West Virginia, 25360, Attention: Jim Stevens?

24

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1 A. Yes.

2 Q. And should this be the address for all
3 communications with the applicant concerning any force
4 pooling order?

5 A. Yes, it should.

6 Q. Do you recommend that the order provide that
7 if no written election is made, then respondent should be
8 deemed as if they elected the cash option in lieu of
9 participation?

10 A. Yes.

11 Q. Should unleased respondents be given 30 days
12 from the date that they receive their copy of the recorded
13 Board order and election letter to file their written
14 elections?

15 A. Yes.

16 Q. And if an unleased respondent elects to
17 participate, should they be given 45 days to pay the
18 applicant for their proportionate share of the actual
19 concluded for production of well costs?

20 A. Yes, they should.

21 Q. Does the applicant expect any party electing
22 to participate to pay in advance that party's share of those
23 completed well costs?

24

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1 A. Yes.

2 Q. Should the applicant be allowed 120 days
3 following the recordation date of the Board order and
4 thereafter annually on that date until production is achieved
5 to pay or tender any cash bonus or delay rental becoming due
6 under the order?

7 A. Yes.

8 Q. Do you recommend that if the respondent
9 elects to participate but fails to pay their share of cost,
10 then their election should be treated as withdrawn and void?

11 A. Yes, I do.

12 Q. Do you recommend that where a respondent
13 elects to participate but defaults in regard to payment of
14 those costs, any cash sum becoming payable to them from the
15 applicant should be paid within 60 days after the last date
16 on which that respondent could have paid their cost?

17 A. Yes.

18 Q. Okay. We don't have any unknown interest
19 and we don't have any conflicting claims, so in this
20 particular case the Board does not need to establish an
21 escrow account, correct?

22 A. That's correct.

23 Q. Okay.

24

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1 JIM KISER: Nothing further of this witness at this
2 time, Mr. Chairman.

3 BENNY WAMPLER: All right. I'm not really
4 understanding the...you talked about working on a joint
5 operating agreement with the EOG Resources, Incorporated.
6 They're listed here as a unleased party---?

7 JIM KISER: No, they should be listed as the oil
8 and gas lessee.

9 BENNY WAMPLER: Well, when I looked...yeah, that's
10 right, they are. I'm sorry, I'm in Tract 2 and 3, right?

11 JIM KISER: Right. They're unleased to us. We
12 don't have any rights to develop those tracts unless they're
13 derivative of EOG. Therefore, we can either try and work
14 out a voluntary agreement with them or pool them.

15 BENNY WAMPLER: Do you agree with that?

16 JIM TALKINGTON: Yes, I do.

17 BENNY WAMPLER: I'm...I'm just trying to keep Jim
18 from testifying. Any other questions of this witness from
19 members of the Board?

20 (No audible response).

21 BENNY WAMPLER: Call your next witness.

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JIM STEVENS

having been duly sworn, was examined and testifies as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

Q. Mr. Stevens, would you state your name for the Board, who you're employed by and in what capacity?

A. Jim Stevens. I'm Vice President of Hard Rock Exploration.

Q. And you're familiar with the...the unit that we're establishing here and the proposed well here?

A. Yes.

Q. And what is the total depth of that well?

A. 5,900.

Q. And will this be sufficient to penetrate and test any common source of supply in any subject formations as listed in the force pooling application?

A. Yes.

Q. And are we requesting the force pooling of conventional gas preserves not only to include the designated formations but any other formations excluding coal formations which may be between those formations designated from the surface to the total depth drilled?

1 A. Yes.

2 Q. What are the estimated reserves for this
3 unit?

4 A. 400 million cubic feet.

5 Q. And are you familiar with the well cost for
6 this well?

7 A. Yes, I am.

8 Q. And in fact, did you yourself prepare an AFE
9 that's been signed and submitted to the Board as Exhibit C?

10 A. Yes.

11 Q. And in your opinion, does it represent a
12 reasonable estimate of the well cost?

13 A. Yes, it does.

14 Q. Could you state for the Board what those
15 are?

16 A. A dry hole cost of \$183,870; completed well
17 cost of \$412,133.

18 Q. And do these cost anticipate a multiple
19 completion?

20 A. Yes, they do.

21 Q. Does your AFE include a reasonable charge
22 for supervision?

23 A. Yes, it does.

24

1 Q. And in your professional opinion, would the
2 granting of this application be in the best interest of
3 conservation, the prevention of waste and the protection of
4 correlative rights?

5 A. Yes.

6 MR. KISER: Nothing further of this witness at
7 this time, Mr. Chairman.

8 BENNY WAMPLER: Questions from members of the
9 Board?

10 (No audible response).

11 BENNY WAMPLER: Do you have anything further?

12 JIM KISER: We'd ask that the application be
13 approved as submitted, Mr. Chairman.

14 BENNY WAMPLER: Is there a motion?

15 MASON BRENT: Mr. Chairman, I move that we grant the
16 application.

17 PEGGY BARBAR: I second.

18 BENNY WAMPLER: Motion and second. Any further
19 discussion?

20 (No audible response).

21 BENNY WAMPLER: All in favor, signify by saying
22 yes.

23 (All members signify in the affirmative).
24
25

1 BENNY WAMPLER: Opposed, say no.
2 (No audible response.)
3 BENNY WAMPLER: You have approval.
4 JIM KISER: Thank you.
5 BENNY WAMPLER: The next item on the agenda is a
6 petition from Columbia Natural Resources, LLC for a well
7 location exception for proposed well 25207, docket number
8 VGOB-05-0215-1406. We'd ask the parties that wish to address
9 the Board in this matter to come forward at this time.
10 JIM KISER: Mr. Chairman, Jim Kiser and Robert
11 Keenan on behalf of Columbia Natural Resources. I'd ask that
12 Mr. Keenan be sworn at this time.
13 (Witness is sworn.)
14 BENNY WAMPLER: Let the record show there are no
15 others. You may proceed.
16 ROBERT KEENAN
17 having been duly sworn, was examined and testifies as
18 follows:
19 DIRECT EXAMINATION
20 QUESTIONS BY MR. KISER:
21 Q. Mr. Keenan, would you state your name and
22 who your employer and what capacity, and talk a little bit
23 about your previous testimony before the Board?
24

1 A. My name is Robert L. Keenan. I'm employed
2 by Columbia Natural Resources, LLC. I am a...a Senior
3 Petroleum Engineer in the engineering department and I've
4 testified before this Board, well, over the previous two
5 years, on various matters relating to CNR's wells to be
6 drilled in the Virginia area.

7 Q. And your responsibilities include the land
8 involved this unit?

9 A. They do.

10 Q. And you are familiar with the application we
11 filed seeking a location exception for well 25207?

12 A. Yes.

13 Q. And have all interested parties been
14 notified as required by section 4-B of the Virginia Gas and
15 Oil Board regulations?

16 A. Yes.

17 Q. Could you indicate for the Board the
18 ownership of the oil and gas underlying the entire unit for
19 well number 25207?

20 A. Buchanan Energy Company has...has 100% of
21 the...the oil and gas interest underneath this well.

22 Q. Okay. And we are, in this particular case,
23 seeking a spacing exception from three different reciprocal
24

1 wells, is that correct?

2 A. 25207, that should be correct.

3 Q. Yeah. And CNR has the right to operate
4 those reciprocal wells?

5 A. Yes.

6 Q. And all these wells are on...including this
7 well and the reciprocal wells, are on a tract that's
8 identified as Buchanan Energy Company tract 96 which is
9 roughly a 2000 acre tract. So, there are no correlative
10 rights issues, correct?

11 A. That is correct.

12 Q. In fact, in regard to that, why don't you,
13 using the application and the reason we filed in the
14 application and the plat, explain why we're seeking this
15 particular location exception?

16 A. The mineral holder of record, which is
17 Buchanan Energy, they have requested that we tighten the
18 spacing in order to hasten the recovery of gas under tract.
19 This location is below the Blair bench which has been the
20 only site of mining in the area. They do not...in their
21 opinion, it is not going to affect future mining operations,
22 and like I say, at this point, it's an effort to appease the
23 mineral holder.

24

--

1 Q. And we have notified the coal lessee and
2 they're on board with this whole idea of tightening---?
3 A. That is correct.
4 Q. ---up the spacing? And so, it's essentially
5 a...a win-win not only for the royalty owner but for the
6 operator and for the state in the form of severance tax
7 collection---?
8 A. Correct.
9 Q. ---is that correct? And in the event this
10 location exception were not granted, would you project the
11 estimated loss of reserves for this area covered by the unit
12 that would result in waste?
13 A. 375 million standard cubic feet.
14 Q. And what's the total depth of the proposed
15 well?
16 A. 5,340.
17 Q. And are you requesting that this location
18 exception cover conventional gas reserves to include the
19 designated formations in...that are in...listed in our
20 application from surface to total depth drilled?
21 A. Yes.
22 Q. And in your professional opinion, would the
23 granting of this location exception be in the best interest
24

1 of preventing waste, protecting correlative rights and
2 maximizing the recovery of gas reserves underlying the unit
3 for 25207?

4 A. Yes.

5 JIM KISER: Nothing further of this witness at
6 this time, Mr. Chairman.

7 BENNY WAMPLER: Okay. In your experience when you
8 move these wells closer together like this, what...what
9 happens as far as overall ability to access the reserves
10 themselves?

11 ROBERT KEENAN: Depending upon the formations that
12 are impacted, there may be minimal or significant impacts.
13 It depends upon how close we're coming. It depends upon what
14 type of time frame that you're talking about in the near
15 term. You know, there would really be negative impact but if
16 you're looking at, you know, 80 to 100 years down the road,
17 you know, you might have some spike interference. At the
18 spacing that we're talking about, I'm expecting, you know,
19 minimal observable impact.

20 BENNY WAMPLER: Okay. Questions from members of
21 the Board.

22 (No audible response).

23 BENNY WAMPLER: Do you have anything further, Mr.
24

1 Kiser?

2 JIM KISER: We'd ask that the application be
3 approved as submitted, Mr. Chairman.

4 BENNY WAMPLER: Is there a motion?

5 BILL HARRIS: Move for approval.

6 MASON BRENT: Second.

7 BENNY WAMPLER: Second. Any further discussion?
8 (No audible response).

9 BENNY WAMPLER: All in favor, signify by saying
10 yes.
11 (All members signify in the affirmative).

12 BENNY WAMPLER: Opposed, say no.
13 (No audible response.)

14 BENNY WAMPLER: You have approval.
15

16 JIM KISER: Thank you.

17 BENNY WAMPLER: The next item on the agenda is a
18 petition from Columbia Natural Resources, LLC for a well
19 location exception for proposed well 25209. This is docket
20 number VGOB-05-0215-1407. We'd ask the parties that wish to
21 address the Board in this matter to come forward at this
22 time.

23 JIM KISER: Again, Mr. Chairman, Jim Kiser and
24

1 Robert Keenan on behalf of CNR. This is the exact same
2 situation as the one we just did. We're only seeking a
3 spacing exception from two wells here instead of three, but
4 the reasoning the...the fee mineral owner, the coal lessee,
5 all of the facts as presented in the previous hearing are
6 exactly the same. I guess maybe I could have combined those
7 two, but I don't know if we've ever done that on a location
8 exception. Probably shouldn't do that but---.

9 BENNY WAMPLER: I don't like to do that.

10 JIM KISER: Would you like me to go through all
11 the testimony again?

12 BENNY WAMPLER: You can incorporate the testi-
13 mony---.

14 JIM KISER: Okay.

15 BENNY WAMPLER: ---that's relevant but I'd...I
16 still think that as far as the location exception itself, we
17 need to have...have some testimony.

18 JIM KISER: Okay.

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. KISER:

21 Q. Has everybody been notified as required by
22 section 4-B, Mr. Keenan?

23 A. Yes.

24

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1 Q. And could you indicate for the Board again
2 the ownership of the oil and gas interest underlying the
3 entire unit for well number 25209?

4 A. Again, that would be Buchanan Energy Company
5 has 100% of the area under the lease.

6 Q. Okay. And in this particular case we are
7 seeking an exception from CNR wells 24917 and 24918. And
8 does CNR have the right to operate both those reciprocal
9 wells?

10 A. Yes.

11 Q. And again, are all three of these wells,
12 including the one we're seeking the exception for and the two
13 reciprocal wells on the Buchanan Energy 2000 acre tract 96?

14 A. They are.

15 Q. Okay. Now, again, as you did last time,
16 kind of explain for the Board what we're trying to do here,
17 why we're seeking this exception.

18 A. Again, this is an effort to appease the
19 mineral holder, Buchanan Energy, who holds the title to the
20 oil, gas and the coal. These locations have been reviewed
21 and worked out with the coal lessees. But again, Buchanan
22 Energy has requested that we try to maximize the number of
23 locations on their tract in order to hasten the recovery of

24

--

1 natural gas. Again, this location is below the Blair bench
2 where the only mining in the area has occurred.

3 Q. And if this location exception were not
4 granted, what would be the estimate loss of reserves?

5 A. 375 million standard cubic feet.

6 Q. And the total depth for this well?

7 A. 5125.

8 Q. And are we asking that this location
9 exception cover conventional gas reserves to include the
10 formations designated in the application from the surface to
11 the total depth drilled?

12 A. Yes.

13 Q. And in your professional opinion, would the
14 granting of this location exception be in the best interest
15 of preventing waste, protecting correlative rights and
16 maximizing the recovery of the gas reserves underlying the
17 unit for well 25209?

18 A. Yes.

19 MR. KISER: Nothing further of this witness at this
20 time, Mr. Chairman.

21 BENNY WAMPLER: Questions from members of the
22 Board of this witness?

23 (No audible response).
24

1 BENNY WAMPLER: Is there a motion?

2 BILL HARRIS: Mr. Chairman, I move we approve the
3 location exception request.

4 MASON BRENT: Second.

5 PEGGY BARBAR: Second.

6 BENNY WAMPLER: Motion and second. Any further
7 discussion?

8 (No audible response).

9 BENNY WAMPLER: All in favor, signify by saying
10 yes.

11 (All members signify in the affirmative).

12 BENNY WAMPLER: Opposed, say no.

13 (No audible response.)

14 BENNY WAMPLER: You have approval. Next item is a
15 petition from Columbia Natural Resources, LLC for a well
16 location exception for proposed well 23858, docket number
17 VGOB-05-0215-1408. We'd ask the parties that wish to address
18 the Board in this matter to come forward at this time.

19 JIM KISER: Mr. Chairman, again Jim Kiser and
20 Robert Keenan on behalf of Columbia Natural Resources. We do
21 have an exhibit for this particular request for variance.
22 Has everybody got a copy of it?

23 BENNY WAMPLER: Almost. Let the record show there
24

1 are no others. You may proceed.

2 ROBERT L. KEENAN

3 having been duly sworn, was examined and testifies as
4 follows:

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. KISER:

7 Q. Mr. Keenan, if you could again state your
8 name for the record, who you're employed by and in what
9 capacity?

10 A. My name is Robert L. Keenan. I'm employed
11 by Columbia Natural Resources, LLC as a Senior Petroleum
12 Engineer in the engineering department.

13 Q. And do your responsibilities include the
14 land involved in this unit and in the surrounding area?

15 A. Yes.

16 Q. Okay. And you are familiar with the
17 application we filed seeking a location exception for this
18 well?

19 A. Yes.

20 Q. And have all interested parties been
21 notified as required by section 4-B of the Virginia Gas and
22 Oil Board regulations?

23 A. Yes.

24

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1 Q. Which includes quite a few parties in this
2 particular case, including South & London Coal Company,
3 Clinthorn Elkhorn, the coal lessee, correct?

4 A. Yes.

5 Q. Okay. Now, could you indicate for the Board
6 the ownership of the oil and gas underlying this unit?

7 A. Buchanan Realty Limited Partnership has a
8 77.888% interest. The Coleman, Chambers and Elgin have a
9 22.12% interest.

10 Q. Okay. And we're seeking an exception from
11 just one well here and that's CNR well T3-791?

12 A. Yes.

13 Q. Okay. And we're seeking an exception of 282
14 feet from that well. Now, the ownership of the oil and gas
15 in the unit for that well is 100% Buchanan Realty, is that
16 correct?

17 A. Yes.

18 Q. Okay. In conjunction with your exhibit that
19 you've given the Board, could you explain the reasons why
20 we're seeking an exception for this particular well?

21 A. This is a...I guess, this is to...for the
22 best interest of terrain and coal, this is a site that has
23 been approved by the coal lessees and their sub-lessees. And
24

1 also you have to take that in consideration to the topography
2 in the area. The terrain limits the number of potential
3 drilling sites. This proposed site, as I say, has been
4 approved by coal and it is a drillable or a viable location,
5 and in order to best serve all interests concerned, this is
6 the site surveyed for this potential location. I would like
7 to just kind of inform the Board as far as the exhibit,
8 your...this didn't come out quite as...as well as I had
9 hoped, but you'll see some pink shading which is really our
10 tracts that are held by production. There's also a tract
11 that is in green which is a term lease and until we have a
12 location drilled on that tract, I mean, it's just...we have
13 that area leased as far as the oil and gas interest, but I
14 just kind of want to explain the exhibit as...as you might
15 see it. And we do have in our future plans, you know, we do
16 plan on putting additional locations approximately 2,500 feet
17 away from this 23858.

18 Q. Probably to the southwest?

19 A. To the southwest.

20 Q. Okay.

21 MASON BRENT: If I can decipher your code, if I drop
22 the 8 on the Exhibit you gave us today, then the well numbers
23 coincide?

24

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1 A. Yes, and we've kind of had this conversation
2 before. In order to, I guess, be able to provide you with
3 the information that is readily accessible through our
4 databases, the way that things are set up, we did have a
5 prefix 8. As the applications are submitted to the State of
6 Virginia it's a five digit system, we normally drop the 8
7 prefix. But if you were going to request any information...I
8 mean, one system feeds another as far as our G-plat is
9 prepared, it feeds the header information for the AFE's. It's
10 kind of a compounding thing and it's just a question of
11 whether it is best to present what the data as we had in hand
12 or to make the special exhibits to kind of conform to the
13 five digit coding system that we initially submit with the
14 state.

15 MASON BRENT: I recall the earlier conversations.

16 Q. Mr. Keenan, in the event this location
17 exception were not granted, would you project as to estimated
18 loss of reserves underlying this unit?

19 A. 350 million standard cubic feet.

20 Q. And the total depth for this well?

21 A. 5300 feet.

22 Q. And are you requesting that this location
23 exception cover conventional gas reserves to include the
24

1 formations as designated in your application from the surface
2 to the total depth drilled?

3 A. Yes.

4 Q. And in your professional opinion, would the
5 granting of this location exception be in the best interest
6 of preventing waste, protecting correlative rights, and
7 maximizing the recovery of the gas reserves underlying the
8 unit for well 23858?

9 A. Yes.

10 JIM KISER: Nothing further of this witness at this
11 time, Mr. Chairman.

12 BENNY WAMPLER: Questions from members of the
13 Board?

14 BILL HARRIS: I just have a question out of
15 curiosity. I notice when you mention the cubic feet that's
16 available, or potentially available, you're saying standard
17 cubic feet. Is there a reason?

18 ROBERT KEENAN: Basically, I mean, it's just...and
19 most of your measurements are set up. When you say standard
20 cubic feet, it normally means what is measured at 14.73 PSIA
21 and at 60 degrees Fahrenheit.

22 BILL HARRIS: Okay.

23 ROBERT KEENAN: And it just depends upon what type
24

1 of, I guess, atmospheric factors. You know, gas expands
2 according to the temperature or can contract with increased
3 pressure, so normally whenever we're talking about measured
4 volumes, things that are normally applied are kind of set at
5 a typical standard.

6 BILL HARRIS: Okay. Fine. That makes sense. I
7 don't know that anyone else uses that...that term but I guess
8 the assumption I guess industry wide, is that the way it's
9 normally done or you're just making sure---?

10 ROBERT KEENAN: It's my impression that it is. It's
11 just that to me it kind of...it's kind of confusing or it's
12 just what I'm...I'm used to hearing, I guess.

13 BILL HARRIS: Yeah, fine.

14 BOB WILSON: Mr. Chairman---.

15 BENNY WAMPLER: Mr. Wilson.

16 BOB WILSON: To further clarify for us to hear it,
17 that it actually defined in our law as to what a standard
18 cubic foot gas is---.

19 BILL HARRIS: Oh, okay.

20 BOB WILSON: ---at standard temperature---?

21 BILL HARRIS: At standard...STP, okay. Fine,
22 thank you. That's what I needed. Thank you, Mr. Wilson.

23 BOB WILSON: Sure.

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1 BENNY WAMPLER: Any other questions?
2 (No audible response).
3 BENNY WAMPLER: Do you have anything further?
4 JIM KISER: We'd ask that the application be
5 approved as submitted, Mr. Chairman.
6 BENNY WAMPLER: Is there a motion?
7 BILL HARRIS: Motion for approval.
8 PEGGY BARBAR: I'll second.
9 BENNY WAMPLER: Motion and second. Any further
10 discussion?
11 (No audible response).
12 BENNY WAMPLER: All in favor, signify by saying
13 yes.
14 (All members signify in the affirmative).
15 BENNY WAMPLER: Opposed say no.
16 (No audible response.)
17 BENNY WAMPLER: You have approval. The next item on
18 the agenda is a petition from Columbia Natural Resources, LLC
19 for a well location exception for proposed well 25155. This
20 is docket number VGOB-05-0215-1409. We'd ask the parties
21 that wish to address the Board in this matter to come forward
22 at this time.
23 JIM KISER: Again, Mr. Chairman and Board members,
24

1 Jim Kiser and Robert Keenan on behalf of CNR. And we're
2 passing out an exhibit for this one, also.

3 ROBERT KEENAN: And before we go too far, on this
4 exhibit you'll notice either a gray area or just a white area
5 to the...to the west.

6 BENNY WAMPLER: Let the record show there are no
7 others. You may proceed.

8 JIM KISER: And then just by way of further
9 edification, this will be a well that we'll be force pooling
10 next month on the March docket. We just filed Friday.
11 You'll see that little sort of white...sort of looks like a
12 eagle's beak or something that sticks out there,
13 that...there's a small portion of that tract that will
14 be...have to be pooled for this unit, about 7%, I think.

15

16 ROBERT KEENAN
17 having been duly sworn, was examined and testifies as
18 follows:

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. KISER:

21 Q. Mr. Keenan, again, do your responsibilities
22 include the land involved here and in the surrounding area?

23 A. Yes.

24

--

1 Q. And are you familiar with the application we
2 filed seeking a location exception for this well?

3 A. Yes.

4 Q. And have all interested parties been
5 notified as required by section 4-B of the Virginia Gas and
6 Oil Board regulations?

7 A. Yes.

8 Q. Could you indicate for the Board the
9 ownership of the oil and gas underlying the unit for this
10 well?

11 A. Richardson Charles estate 92.48%; Plum Creek
12 Timberlands Limited Partnership 7.38%; and Buchan...Buchanan
13 Realty Limited Partnership 0.14%.

14 Q. And that 7.38% will be the...what we force
15 pool next month?

16 A. Correct.

17 Q. And in this particular case we are seeking
18 an exception from two different CNR wells, that being 20646
19 and 20658, is that correct?

20 A. Yes.

21 Q. And Equitable...not Equitable...CNR has a
22 right to operate those reciprocal wells?

23 A. Yes.

24

--

1 Q. And both of those wells are located on the
2 3,858 acre A.S. Richardson, Green Charles estate tract?

3 A. Yes.

4 Q. So there are no correlative rights issues?

5 A. No.

6 Q. Now, in conjunction with your exhibit that
7 you've passed out to the Board, could you explain why we're
8 seeking an exception for this well?

9 A. Well, again this site was selected to
10 appease the coal interests in the area. CNR also has three
11 offset wells on the same tract and really to fully develop
12 this portion of the tract, we're running into a spacing
13 exception in just about any direction that we go wherever we
14 spot the well in order to, like I say, kind of fully develop
15 this gap that's in between the three offsetting wells.
16 Again, topography limits the number of available sites in the
17 area and this location is kind of the best modification, I
18 guess, or the best solution to appeasing or I guess to
19 solving some of the different issues relating to coal...
20 relating to the gap of the undeveloped...or the existing
21 undeveloped acreage and that's why we're submitting this to
22 the Board is really to kind of fulfill or to fill this slight
23 gap from the existing offsetting wells.

24

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1 Q. So, to summarize, to accommodate the coal
2 interest for slope and erosion, terrain issues and probably
3 most importantly to make sure we maximize the recovery and
4 don't leave any gas behind, this is the best given the
5 already existing locations of the exist...given the locations
6 of the existing wells, this is the best case scenario for a
7 well location for this particular well?

8 A. Yes.

9 Q. Okay. In the event the location exception
10 were not granted, could you project the estimated loss of
11 reserves?

12 A. 350 million standard cubic feet.

13 Q. And the total depth of the well under the
14 plan of development?

15 A. 5,630 feet.

16 Q. And are you requesting this location
17 exception cover conventional gas reserves to include a
18 production for the formations listed in our application from
19 the surface to the total depth drilled?

20 A. Yes.

21 Q. And in your professional opinion, would the
22 granting of this location exception be in the best interest
23 of preventing waste, protecting correlative rights, and in
24

1 particular maximizing the recovery of the gas reserves
2 underlying the unit for 25155?
3 A. Yes.
4 JIM KISER: Nothing further of this witness at this
5 time, Mr. Chairman.
6 BENNY WAMPLER: Questions from members of the
7 Board?
8 (No audible response).
9 BENNY WAMPLER: Anything further?
10 JIM KISER: We'd ask that the application be
11 approved as submitted, Mr. Chairman.
12 BENNY WAMPLER: Is there a motion?
13 PEGGY BARBAR: I motion we approve the application.
14 BILL HARRIS: Second.
15 BENNY WAMPLER: Motion and second. Any further
16 discussion?
17 (No audible response).
18 BENNY WAMPLER: All in favor, signify by saying
19 yes.
20 (All members signify in the affirmative).
21 BENNY WAMPLER: Opposed, say no.
22 (No audible response.)
23 BENNY WAMPLER: You have approval. Thank you.
24

1 The next item on the agenda is the one we put on on
2 our own motion and that was to hear a request to transfer all
3 previous orders assigned to Virginia Gas Company to a new
4 operator, Appalachian Energy. This is docket number VGOB-05-
5 0215-1411. We'd ask the parties that wish to address the
6 Board in this matter to come forward at this time.

7 JIM KISER: Mr. Chairman, members of the Board,
8 Jim Kiser and Jim Talkington on behalf of Appalachian Energy.
9 Let's see what we've got here for you. Okay, Mr. Wilson's
10 office provided us...what we're trying to do here is, as you
11 know, Appalachian Energy purchased the---.

12 JIM TALKINGTON: Stock.

13 JIM KISER: Yeah. Anyway, they got the existing
14 Virginia Gas Production---.

15 JIM TALKINGTON: Correct.

16 JIM KISER: ---some time ago and there were a
17 number of Virginia Gas wells that were subject to either a
18 pooling application or a location application before the
19 Board. You know, anywhere from I guess back in---.

20 JIM TALKINGTON: Act... '90...from '90 through '94.
21 1990 through '94.

22 JIM KISER: And as a housekeeping, you know,
23 cleaning, straightening things up, the Board and Mr. Wilson
24

1 asked us to come forward or we asked the Board on our own
2 request wanting to assign these orders from Virginia Gas to
3 Appalachian Energy.

4 JIM TALKINGTON: I might point out that the...the
5 actual wells that were previously under Virginia Gas' name
6 have already been transferred into Appalachian Energy's name.

7 JIM KISER: The permits?

8 JIM TALKINGTON: The permits, yes. Now it's just
9 the Board order.

10 JIM KISER: And I guess the bond and everything?

11 JIM TALKINGTON: Right.

12 BENNY WAMPLER: Tell us who you are and your
13 position with Appalachian Energy.

14 JIM TALKINGTON: I'm land man...my name is Jim
15 Talkington. I'm land man with Appalachian Energy, also.

16 BENNY WAMPLER: That's okay. Since we had you on
17 record on the other one, I wanted to get that clear.

18 JIM TALKINGTON: Right, I was with another company
19 previously.

20 MASON BRENT: And you're still under oath?

21 JIM TALKINGTON: Yes.

22 JIM KISER: Correct. And Diane Davis with Mr.
23 Wilson's office provided us with a...a worksheet with a list
24

1 of petitions and docket numbers and hearing dates to work
2 from. It included pooling exceptions and then some
3 miscellaneous orders which I think were just some
4 disbursements or royalty splits or something. But we've
5 taken that list, I guess, and I'll let Jim kind of tell you
6 what he's got there and maybe we can submit this to the Board
7 if not today then in the near future and then Mr. Wilson's
8 office will draft an order to effectuate this transfer.

9 JIM TALKINGTON: What we have currently seventeen
10 orders that are in Virginia Gas Company's name that we would
11 like to transfer into Appalachian Energy's name. All of
12 these are either pooling orders for conventional gas rights
13 or coalbed gas rights, or exceptions and establishment of
14 units. And I have a listing of the docket numbers for each
15 of these. There are a total of seventeen orders that we
16 would like to transfer.

17 JIM KISER: Is there anything that we're going to
18 need to do in addition to what you've got here?

19 JIM TALKINGTON: Unless Department of Gas and Oil
20 would require it, I...my personal opinion is the docket
21 number is the identifying number.

22 BOB WILSON: What we would do under that is
23 generate an order which would be a brief order with the list
24

1 of docket numbers that you have used for Virginia Gas
2 Company, now Appalachian Energy, attached and that would be
3 recorded in the courthouse for every jurisdiction that you
4 have had any filed in before. Again, we'll draft that order
5 as soon as your research is complete and you have all the
6 numbers in. I'd like to suggest that maybe since...I'm
7 assuming you're not quite finished with your...your work on
8 this, maybe that you request the Board to approve the
9 transfer of these seventeen and any others that you might
10 find if you're continuing to look at this, so that you
11 capture everything in the order.

12 BENNY WAMPLER: Subject to the approval...to your
13 approval as...as you review those---.

14 BOB WILSON: Yes, sir.

15 JIM KISER: And then maybe Jim can show you what
16 he's done and if there's anything you need in addition to
17 that, you can let him know. I mean, I think he's got
18 everything except maybe all the actual well numbers, I don't
19 know if you actually need those.

20 BOB WILSON: Generally not, we just deal strictly
21 with docket numbers and this is consistent with what we've
22 done with other operators in the past.

23 JIM KISER: Okay.

24

--

1 BENNY WAMPLER: So this...this would be a motion
2 to transfer all previous orders assigned to Virginia Gas
3 Company to the new operator, Appalachian Energy?
4 MASON BRENT: What it would include, I assume
5 that...that they're licensed to do business in Virginia and
6 bonded and all that sort of stuff.
7 BOB WILSON: I can certainly include that. I just
8 think it would be good to do that.
9 BENNY WAMPLER: Is there a motion to that effect?
10 MASON BRENT: So moved.
11 PEGGY BARBAR: I'll second.
12 BENNY WAMPLER: And second. Any further
13 discussion?
14 BILL HARRIS: Let me just ask a question---.
15 BENNY WAMPLER: Okay.
16 BILL HARRIS: ---and this may be unrelated. I
17 remember years ago Virginia Gas had some storage wells some
18 place. Whatever became of those? This may be unrelated like
19 I said.
20 JIM TALKINGTON: They are still under the auspice of
21 Virginia Gas Storage Company which is currently owned by
22 Atlanta Gas and Light, but they are currently still owned---.
23 BILL HARRIS: Okay. But they still exist---?
24

1 JIM TALKINGTON: They still exist, yes sir.

2 BILL HARRIS: ---and still...so....okay.

3 BOB WILSON: That's under the auspices of the

4 State Corporation Commission.

5 JIM KISER: Yeah, it was never under your

6 jurisdiction.

7 JIM TALKINGTON: Right. Okay. But they do still

8 exist and---.

9 BILL HARRIS: Okay. I was just curious. Like I

10 said, it may have been back---. Thank you.

11 BENNY WAMPLER: All in favor, signify by saying

12 yes.

13 (All members signify in the affirmative).

14 BENNY WAMPLER: Opposed, say no.

15 (No audible response.)

16 BENNY WAMPLER: You have approval. Thank you. And

17 finally, the minutes from last meeting. The Board, I think,

18 has a copy of those. If there's any additions, corrections,

19 if not I'd entertain a motion to approve.

20 MASON BRENT: I'd be delighted to give you a

21 motion, but I wasn't here.

22 BILL HARRIS: Mr. Chairman, I move for approval of

23 the minutes from the last meeting.

24

1 BENNY WAMPLER: Is there a second? I'll second
2 them---.
3 MASON BRENT: I'll second them and just go on his
4 word.
5 BENNY WAMPLER: ---since I was here.
6 PEGGY BARBAR: I wasn't here either.
7 BENNY WAMPLER: All in favor, signify by saying
8 yes.
9 (All members signify in the affirmative).
10 BENNY WAMPLER: Opposed, say no.
11 (No audible response.)
12 BENNY WAMPLER: We have approval. Thank you. Mr.
13 Wilson, do you have anything further?
14 BOB WILSON: No, sir.
15 BENNY WAMPLER: That concludes today's hearing.
16 Thank you very much.
17
18 STATE OF VIRGINIA,
19 COUNTY OF BUCHANAN, to-wit:
20 I, Sonya Michelle Brown, Court Reporter and Notary
21 Public for the State of Virginia, do hereby certify that the
22 foregoing hearing was recorded by me on a tape recording
23 machine and later transcribed under my supervision.

24

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1 Given under my hand and seal on this the 3rd day of
2 March, 2005.

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NOTARY PUBLIC

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6 My commission expires: August 31, 2005.

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